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DÉVELOPPEMENTS RÉGIONAUX

Document établi par le Bureau Permanent

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REGIONAL DEVELOPMENTS

Document drawn up by the Permanent Bureau

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DÉVELOPPEMENTS RÉGIONAUX

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I. INTRODUCTION

1. Over the past decade the Permanent Bureau has continued to develop its activities in the field of promotion, education and training in respect of Hague Conventions at the global, regional and national levels, in close consultation and co-operation with Hague Conference Members and States Parties to Hague Conventions. In recent years the Permanent Bureau has begun to focus efforts and initiatives at the regional level, in particular in Latin America, in Africa, in the Asia-Pacific region and among States with legal systems based upon or influenced by Shariah law.

2. These regional developments bring several dividends. They promote closer networking and co-operation among States with special cultural and linguistic ties. They bring in to the Conventions more States formerly unfamiliar with Hague Conventions. They benefit other States outside the region through the development of good practices and consistent interpretation, and thus contribute in a more general way to the successful operation of the Conventions. They permit consideration to be given to ways of adapting the Conventions to the particular legal environments shared by countries in a region.

3. As the administrative aspects of the regional programmes are now carried out through the International Centre, attention is drawn to the Annex, Information Document – The Hague Conference International Centre for Judicial Studies and Technical Assistance. The Information Document, drafted for the purpose of fundraising for the initiatives, summarises activities under seven programmes and contains proposals and budgetary figures for the future. The purpose of Preliminary Document No 4, Regional Developments, is to highlight some aspects of the programmes described in detail in the Information Document and to draw attention to the most developed regional programme, the Latin American Special Programme, which may be seen as a model for the continued development of the other regional initiatives.

II. CONVENTION-SPECIFIC AND REGIONAL PROGRAMMES

4. As set out in the Information Document attached as Annex, the initiatives and programmes already under way have been grouped under seven headings:

- **Project 1 - The Intercountry Adoption Technical Assistance Programme (ICATAP) (Annex, paras 11 *et seq*.)**

5. The States Parties to the Hague Intercountry Adoption Convention have entrusted the Permanent Bureau with the responsibility of monitoring and reviewing the operation of the Convention in the different Contracting States and of providing States with assistance to help ensure its effective implementation and operation. The Intercountry Adoption Technical Assistance Programme (ICATAP) was designed to provide assistance directly to the Governments of certain States which are planning ratification of, or accession to, the Convention, or which have ratified or acceded but are experiencing difficulties with implementation of the Convention.

6. ICATAP is operated directly by the Permanent Bureau, through the International Centre, utilising staff and resources dedicated to this project, as well as international consultants and experts. The use of a pilot programme enables the Permanent Bureau to review at periodic intervals the effectiveness of the programme, and to keep Member States updated on the progress of ICATAP. There has been large interest in the programme, and the legal tools, frameworks and information developed during the pilot phase in particular will be very useful when the programme is expanded. It is anticipated that the next phase of the programme will provide assistance to one or two States in the Asia-Pacific region, Africa and / or Latin America.

7. Under ICATAP, extensive technical, including legislative, *assistance has been provided* to the Government of **Guatemala**. (Details are set out in the Annex.)

8. *Specific requests* for assistance have been received from authorities in Convention States Parties **Azerbaijan, the Dominican Republic, Kenya, Nepal, and South Africa**; and non-State Party **Mozambique**.

9. Initial discussions in respect of providing technical assistance have been held with authorities in Convention State Party **Cambodia;** and non-States Parties **Malawi and Viet Nam.**

10. Further difficulties have been identified in Convention States Parties Belarus, Costa Rica, El Salvador, Panama, and Thailand; and non-States Parties Ethiopia, Haiti, Indonesia, Lesotho, the Russian Federation and Ukraine.

- **Project 2 - The International Child Abduction and Child Protection Assistance Programme (Annex, paras 33 *et seq.*)**

11. Under the Assistance Programme a focus has been on identifying the States where weaknesses or needs exist or where the Convention is about to come into operation. In identifying weaknesses or needs in States, the Permanent Bureau may be alerted by Contracting States experiencing difficulties with other Contracting States or the Permanent Bureau may be contacted for assistance by the State experiencing difficulties itself. Following such a request further investigations and consultations may be undertaken by a Member of the Permanent Bureau, or by an expert requested to act on behalf of the Permanent Bureau, to identify the strengths and weaknesses of the State as well as to identify regional and national experts and organisations that may be able to assist in subsequent missions and training.

12. In respect of countries that are not yet Contracting States to the 1980 Child Abduction Convention or to the 1996 Child Protection Convention but that intend to join the Conventions it is hoped that it will be possible to provide an expert team prior to the drafting of implementing legislation as well as to assist with judicial information programmes and Central Authority infrastructures for some States. In respect of the Child Protection Convention, it is anticipated that assistance will be offered to States on a broad regional basis. It is also hoped that the Permanent Bureau may be in a position on a routine basis to offer new Contracting States to both Conventions a package of assistance, including the possibility of technical advice and training.

13. This programme will focus on States where weaknesses or needs exist or where the 1980 and / or 1996 Conventions are about to come into operation, in particular in **Latin America, the Middle East and North African (MENA) region, Sub-Saharan African States and the Asia-Pacific region.**

14. Initial discussions have been held with authorities in **Ukraine** and **Thailand.**

- **Project 3 - Cross-Frontier Child Protection and Family Law Issues involving Certain Hague Convention States and Certain Non-Hague States from within the Islamic Tradition ("The Malta Process") (Annex, paras 53 *et seq.*)**

15. Following **two Judicial Conferences on Cross-Frontier Family Law Issues involving certain Hague Convention States and certain non-Hague States from within the Islamic tradition** (**March 2004** and **March 2006**) co-organised by HCCH and the Government of Malta, a **third Conference** in the Malta series is planned for **late 2008 / early 2009**. The third Conference in the Malta series will be well placed to advance the dialogue among Judges and Governmental experts, which has occurred within the 'Malta Process', both in involving a wider range of States and in progressing the search for a shared legal basis for judicial co-operation. It will continue to identify and elaborate the building blocks for the development of a legal structure which will provide a firm basis for judicial co-operation and which will provide parents with a secure international

framework within which to resolve their differences. This will include consideration of relevant Hague Conventions, as well as bilateral and possible regional initiatives.

16. It is envisaged that the participants at the 2008 / 2009 Conference will include two Judges from each of a broader range of States as well as a senior official having policy responsibilities in the areas to be discussed. The countries invited to participate will be those that took part in or were invited to the second Malta Conference: **Algeria, Australia, Belgium, Canada, Egypt, France, Germany, Indonesia, Italy, Jordan, Lebanon, Libya, Malaysia, Malta, Morocco, Netherlands, Pakistan, Portugal, Spain, Sweden, Tunisia, Turkey, United Arab Emirates, United Kingdom and the United States of America.** In addition various States from the Gulf Region as well as relevant Regional Organisations (the League of Arab States, Asian-African Legal Consultative Organization (AALCO), the African Union and the European Union) and the UN Committee on the Rights of the Child, will also be invited to participate.

- **Project 4 - The Special Programme for Latin American States (Annex, paras 71 *et seq.*)**

17. The Special Programme for Latin American States to support implementation of Hague Judicial and Administrative Co-Operation Conventions, the first regional programme developed and implemented by the Permanent Bureau, may be seen as a model for the future for the other regional initiatives currently under development.

18. The Special Programme, initiated in early 2005, began by concentrating efforts in **Phase I** (April 2005-June 2006) on **providing technical assistance to States in Latin America in implementation of the Hague Children's Conventions** (abduction, adoption, and protection of children), particularly through visits to Central Authorities and convening national and international judicial seminars, in consultation and co-operation with the national governments of each State.

19. **Phase II** of the Special Programme (July 2006-June 2007) saw an increased focus on **all Hague Judicial and Administrative Co-operative Conventions** (including the legalisation, service of documents, taking of evidence, and access to justice Conventions).

20. **Phase III** of the Special Programme (July 2007-June 2008) has provided support in respect of the Hague Children's Conventions with a special focus on: (i) **implementation** of some of the Conclusions and Recommendations of the Fifth Meeting of the Special Commission to review the practical operation of the **1980 Hague Convention** and to consider some implementation issues concerning the **1996 Hague Convention**, and of the Inter-American Expert Meeting, including through a **major follow-up meeting jointly convened by the Organization of American States Inter-American Children's Institute and HCCH**; (ii) **implementation** of some of the Conclusions and Recommendations of the Second Special Commission Meeting to review the practical operation of the **1993 Hague Convention,** as well as **assistance under the Intercountry Adoption Technical Assistance Programme for Guatemala;** and (iii) continuing to **promote** interest and involvement in the region in the final stages of the negotiations on the new Hague Convention on the **International Recovery of Child Support and Other Forms of Family Maintenance**. The Programme has also encouraged and assisted States in the development of internal procedures to assist in the effective functioning of the **Hague Judicial and Administrative Co-operation Conventions**.

21. One of the central pillars of the Special Programme during Phase III involved the continued development of a co-operative and supportive relationship with the leading bodies in the region, including the Organization of American States' **Inter-American Children's Institute (IIN)** and **Mercosur**.

22. As a follow-up to the November 2006 joint IIN-HCCH meeting, a **Second Inter-American Meeting of Governmental Experts on International Child Abduction by one of their Parents was convened in Argentina** in September 2007. Both Meetings

may be seen as concrete achievements based on the Agreement signed by both Organisations on 11 June 2006. Participants at the September 2007 Meeting included Judges and Central Authority officials from **Argentina, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Mexico, Panama, Paraguay, Peru, Trinidad and Tobago, the United States of America, Uruguay and Venezuela,** as well as observers from Spain, UNICEF, Missing Children Argentina and several interested academics. The participation by HCCH Secretary General, the Vice-President of the Directing Council of the IIN, and the Director General of the IIN was also a clear signal of the importance given to the meeting by both Organizations.[1]

23. The September 2007 Meeting achieved several concrete steps in respect of **three specific projects**. **First** in respect of developing a **Model Law on rules of procedure for the Application of the Hague and Latin-American Child Abduction Conventions**,[2] during the November 2006 IIN-HCCH Meeting experts considered it advisable to develop a regional model law of procedure which could facilitate the national implementation and the application by judges of the Child Abduction Conventions. The Model Law was developed, under the auspices of the IIN-HCCH, by a group of experts from Argentina, Mexico, Panama, Peru, the United States of America and Uruguay, and presented to the September 2007 Inter-American Meeting. The final draft sets out an autonomous swift procedure for the application of the Child Abduction Conventions, promoting the speedy resolution of cases by courts within the expected time of six weeks and therefore ensuring that the objects of the Convention are achieved. It is hoped that the Model Law will be useful for those States that are considering enacting specific procedural laws for the application of the Conventions.

24. **Secondly**, during the first Inter-American Expert Meeting, it was concluded that, as there was not sufficient knowledge of the **1996 Hague Convention** in the region, it was advisable to develop a study analysis of the Convention from the American perspective so as to facilitate the understanding of the instrument and its possible impact on the national legal systems. This **Preliminary Study** was generated by a group of experts from **Argentina, Brazil, Ecuador, El Salvador and Peru.** The Preliminary Study was presented for discussion during the Second Inter-American Meeting where it was concluded that the IIN and HCCH should encourage States to study the 1996 Hague Convention and that the Preliminary Study could be suggested as a basis for such studies.

25. **Thirdly**, progress was made in respect of the regional development of the **Hague Liaison Judges' Network**. At the Inter-American Meeting **14 expert Judges representing 13 jurisdictions** met to discuss "direct judicial communications and liaison judges" and reached unanimous agreement in respect of the need to promote direct judicial communications and networking. The Hague Network of Liaison Judges now includes formal and informal nominations of **19 Liaison Judges from Argentina, Brazil, Canada, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Mexico, Panama, Paraguay, Peru, the United States of America, Uruguay, and Venezuela**.

26. **Phase IV** of the Special Programme (July 2008-June 2009) intends to continue to **promote** and provide **information** in respect of the relevant **Conventions on Judicial and Administrative Co-operation**, as well as to **continue to develop the technical assistance programmes for Latin American States**.

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[1] The main objectives of the September 2007 Inter-American Meeting were to i) generate contributions to design a Working Plan for the Inter-American Programme of Cooperation for the Prevention and Remedy of Cases of International Abduction of Children by One of Their Parents (AG/RES. 2028 (XXXIV-O/04)), and ii) work on the implementation of some of the Conclusions and Recommendations of the Fifth Meeting of the Special Commission to review the practical operation of the 1980 Hague Convention and to consider some implementation issues concerning the 1996 Hague Convention, and of the Inter-American Expert Meeting held in The Hague on 10 November 2006.

[2] Both the 1980 Hague Convention and the 1989 Inter-American Convention.

27. Throughout the course of the Special Programme, strong support for the Programme has been expressed by States both within and outside the region. After Phase I of the Programme Member States viewed the position of **Liaison Legal Officer** to be a core component of the work of the Permanent Bureau and the position was transferred from the Supplementary Budget to the Regular Budget of the Hague Conference in July 2006. The operating costs of the Programme continue to be funded by voluntary contributions to the Supplementary Budget.

28. States that have been involved include **Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela, as well as Canada, Spain and the United States of America.**

- **Project 5 - The Hague Project for Africa (Annex, paras 85 *et seq.*)**

29. Under the Hague Project for Africa, **Judicial Seminars** were held in The Hague in **September 2006** involving principally **Judges from Southern and Eastern Africa**, and in **August 2007** for **Judges from French-speaking Africa**. Both Seminars intended to promote the Hague Conventions and the work of the Hague Conference. The next stage of the Hague Project involves the convening of a major regional conference in **South Africa in co-operation with The Presidency of the Republic of South Africa** in 2008. The 2008 Conference will build on the 2006 Conclusions and Recommendations which agreed a set of proposals suggesting for States in sub-Saharan Africa how the Hague Children's Conventions may be of help in protecting children in cross-frontier contexts, and how they may be implemented in a way which respects local conditions and cultures, and taking into account issues of capacity and especially the problem of access to legal services and procedure. The 2006 Seminar made recommendations for **two areas** in which the Hague model would be useful for African countries in the practical implementation of the UNCRC and the African Charter: **(i) the development of Central Authority structures** (to play a key role in inter-governmental co-operation for the protection of children in cross-border situations, including cases of trafficking); as well as **(ii) the development of Judicial Networks**, supported by a legal infrastructure which includes the Hague Children's Conventions addressing international child abduction, inter-country adoption, and parental responsibility and measures for the protection of children.

30. The Hague Project for Africa involves **Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central African Republic, Congo, Chad, Côte d'Ivoire, Democratic Republic of Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Guinea, Guinea-Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Rwanda, Senegal, Somalia, South Africa, Swaziland, Tanzania, Togo Tunisia, Uganda, Zambia, Zimbabwe**.

- **Project 6 - The Asia-Pacific Regional Initiative (Annex, paras 103 *et seq.*)**

31. In **June 2007** Judges, Government officials and other experts from the Asia-Pacific region met in **Sydney**, Australia, to discuss the operation and implementation within the Asia-Pacific Region of the Hague Conventions in the areas of child protection and legal co-operation. The initiative was generously funded by the Government of **Australia**, with the support of **New Zealand**. **The Regional Meeting progressed the work begun in 2005 at the successful Malaysian Seminar** and also examined some of the issues discussed at the Malta I and II conferences. In particular, it was concluded in Australia that the **States would continue working to further international co-operation among States in the Region in the areas of child protection and legal co-operation, principally through the vehicles of the Hague Conventions.** Progressive co-operation in the Region with the assistance of the Hague Conference and

regional organisations was stressed, as was the importance of training to secure the effective implementation and operation of international instruments such as the Conventions, in co-operation with the relevant international and regional bodies.

32. The **Third Asia-Pacific Seminar** will involve the convening of a Seminar in September 2008 which will be sponsored by the **Government of China, Hong Kong Special Administrative Region**. It is expected that the third Seminar will involve similar States to the first two initiatives including: **Bangladesh, Brunei Darussalam, Cambodia, China, Cook Islands, India, Indonesia, Republic of Korea, Laos, Malaysia, Myanmar, Pakistan, Papua New Guinea, Philippines, Samoa, Singapore, Sri Lanka, Thailand, Tonga, and Viet Nam**.

- **Project 7 – The Hague Programme for the Commonwealth of Independent States (Annex, paras 109 *et seq.*)**

33. The Hague Programme for the Commonwealth of Independent States has been designed to provide assistance in respect of the implementation and operation of the Judicial and Administrative Co-operation Conventions to States Parties from the Commonwealth of Independent States (CIS) through both diagnostic missions and training and educational seminars, particularly in respect of the **Hague Service and Evidence Conventions**. CIS States include: **Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan, Ukraine and Uzbekistan**.

34. In co-operation with the Governments of **Canada** and **Finland** the Permanent Bureau jointly organised a seminar on the Hague Service Convention in **Moscow in October 2005**, with a follow-up seminar in January / February 2007 in Saint Petersburg. The **third seminar** in the series, to be convened in **Yekaterinburg in May 2008**, intends to build on the foundation established by the first two initiatives through a more in-depth examination of the **Service Convention** for officials with responsibility to implement the Hague Service Convention (Central Authority, staff of the Ministry of Justice in the Regions and some Judges). Commitments from the Governments of **Canada and Finland,** with assistance from the **Russian Federation**, have been made to co-fund the Yekaterinburg initiative. Specific assistance to the Government of **Ukraine** in respect of the Service and Evidence Conventions has also been underway.

ANNEX

INFORMATION DOCUMENT –
THE HAGUE CONFERENCE INTERNATIONAL CENTRE
FOR JUDICIAL STUDIES AND TECHNICAL ASSISTANCE

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ANNEXE

DOCUMENT D'INFORMATION –
CENTRE INTERNATIONAL D'ÉTUDES JUDICIAIRES ET D'ASSISTANCE TECHNIQUE
DE LA CONFÉRENCE DE LA HAYE

THE HAGUE CONFERENCE INTERNATIONAL CENTRE FOR JUDICIAL STUDIES AND TECHNICAL ASSISTANCE

EXECUTIVE SUMMARY

1. The concepts behind, and indeed the need for, the Hague Conference International Centre for Judicial Studies and Technical Assistance have been developing gradually over the past decade. As the cross-border movement of people and transactions have increased, so too has the need for the legal and administrative frameworks established by the Hague Conventions. As an increasing number of States become Party to the Conventions, the need for implementation assistance expands in parallel. For the past decade the Hague Conference has been providing implementation assistance *inter alia* through diagnostic visits, advice and consultation, and judicial seminars, first on a country-by-country basis, and gradually through regional initiatives. These developments have been viewed as successful and have been generously funded by Member States of the Hague Conference on Private International Law through voluntary contributions to the Supplementary Budget.[1]

2. The creation of the Centre, established earlier this year at the new Academy Building on the premises of the Peace Palace, as an integral part of the Permanent Bureau of the Hague Conference on Private International Law put these initiatives on a more secure footing. The first stage of the Centre was made possible by an initial grant of the Government of the Netherlands. Moreover its first pilot programme (the Intercountry Adoption Technical Assistance Programme) was also supported by the Government of the Netherlands, and subsequently by the Government of the United States of America and the Government of Australia. The Centre will enable a more systematic approach to be taken to the provision of implementation assistance and training.

3. The Hague Conference International Centre for Judicial Studies and Technical Assistance focuses on providing administrative and logistical support to the Convention-specific, regional and other initiatives being undertaken and developed by the Permanent Bureau in consultation with its Member States, in particular in respect of the Hague Children's Conventions and the Hague Judicial and Administrative Co-operation Conventions.

4. The Permanent Bureau and the Centre focus on providing co-ordinated assistance under the Conventions along three major lines of action:

a) identifying weaknesses or needs in States / regions or where a Hague Convention is about to come into operation;

b) considering what the Hague Conference is able to offer itself and in co-operation with others (States Parties, Regional Bodies or NGOs) in the way of training and technical assistance; and

c) examining how to access any necessary funding.

5. In particular the Centre:

a) deals with requests for assistance;

b) assists scheduling and carrying out the logistical work surrounding the training and seminar programmes of the Hague Conference;

[1] Since 1999 more than 2 Million Euros have been contributed to the Supplementary Budget of the Hague Conference, primarily through voluntary contributions by Member States. See *infa* Part II.

c) helps establish an international panel of resource persons (already many international experts are involved in the programmes);

d) assists in the development of training materials;

e) drafts and implements funding proposals.

6. The purpose of this Document is to provide information as to important initiatives already undertaken under the aegis of the Centre and to seek advice, including as to possible new avenues for funding for the initiatives under the Centre particularly through Departments of Development Assistance.

7. For the purposes of discussion the initiatives and programmes already underway and envisaged for the Centre have been grouped under seven headings in **Part I** (paras 11-117):

- **Project 1 - The Intercountry Adoption Technical Assistance Programme (at paras 11 *et seq.*)**

  Funding needed: 1,718,000 Euros through June 2010

  States concerned: Azerbaijan, Belarus, Cambodia, Costa Rica, Dominican Republic, El Salvador, Ethiopia, Guatemala, Haiti, Indonesia, Kenya, Lesotho, Malawi, Mozambique, Nepal, Panama, Russian Federation, South Africa, Thailand, Ukraine, Viet Nam

- **Project 2 - The International Child Abduction and Child Protection Assistance Programme (at paras 33 *et seq.*)**

  Funding needed: 30,600 Euros through June 2009

  Focus on States where weaknesses or needs exist or where the Conventions are about to come into operation. Latin America, the Middle East and North African (MENA) region, Sub-Saharan African States and the Asia-Pacific region.

- **Project 3 - Cross-Frontier Child Protection and Family Law Issues involving Certain Hague Convention States and Certain Non-Hague States from within the Islamic Tradition ("The Malta Process") (at paras 53 *et seq.*)**

  Funding needed: 127,000 Euros through June 2009

- **Project 4 - The Special Programme for Latin American States (at paras 71 *et seq.*)**

  Funding needed: 30,000 Euros through June 2009

  States concerned: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela, as well as Canada, Spain and the United States of America.

- **Project 5 - The Hague Project for Africa (at paras 85 *et seq.*)**

  Funding needed: 345,600 Euros through June 2009

  States concerned: Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central African Republic, Congo, Chad, Côte d'Ivoire, Democratic Republic of Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia,

Gabon, Guinea, Guinea-Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Rwanda, Senegal, Somalia, South Africa, Swaziland, Tanzania, Togo Tunisia, Uganda, Zambia, Zimbabwe

- **Project 6 - The Asia-Pacific Regional Initiative (at paras 103 *et seq.*)**

  Funding needed: 230,200 Euros through June 2009

  States concerned: Bangladesh, Brunei Darussalam, Cambodia, China, Cook Islands, India, Indonesia, Republic of Korea, Laos, Malaysia, Myanmar, Pakistan, Papua New Guinea, Philippines, Samoa, Singapore, Sri Lanka, Thailand, Tonga, Viet Nam

- **Project 7 – The Hague Programme for the Commonwealth of Independent States (at paras 109 *et seq.*)**

  Funding needed: 219,100 Euros through June 2010

  States concerned: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Ukraine and Uzbekistan

8. **The total funding needed for these seven projects is estimated at 2,700,500 Euros.**

9. **Part II** (paras 118-142) of this Document sets out details in respect of the post-Convention services of the Hague Conference and the foundation upon which the Centre has been built.

10. **If we may we would like to draw attention to four points in particular on which to focus discussion.**

1) **Which of the aforementioned programme(s) is / are likely to be of interest to your Country?**

2) **Could you advise us as to the possibilities for your Country to fund any / more of these projects through the usual channels for funding of the budget of the Hague Conference?**

3) **Could you advise us as to the possibility for your Country to fund any / more of these projects, either jointly with other States or alone, through Departments of Developmental Aid?**

4) **Could you advise us as to sources of funding other than those mentioned under points 2) and 3)?**

PART I

* * *

PARTIE I

PROJECT 1
THE INTERCOUNTRY ADOPTION TECHNICAL ASSISTANCE PROGRAMME

I. BACKGROUND

11. The principal multilateral instrument to regulate intercountry adoption in detail is the ***Hague Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption***, which establishes safeguards to ensure that where intercountry adoptions take place they do so in the best interests of the child with respect to the child's fundamental rights. There are 74 States Parties to the 1993 Hague Convention.

12. The Convention recognises that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her country of origin. It requires that possibilities for the placement of the child within the country of origin be considered first.

13. The Convention establishes a system of co-operation between authorities in countries of origin and receiving countries, designed to ensure that intercountry adoption takes place under conditions which help to guarantee the best adoption practices and the elimination of abuses. Contracting States may adopt additional safeguards where needed to protect the child. The Convention safeguards aim to prevent the abduction, the sale of, or traffic in children. The Convention guarantees the recognition in all Contracting States of adoptions made in accordance with the Convention.

14. The 1993 Hague Convention, inspired by Article 21 of the *United Nations Convention on the Rights of the Child*,[2] is supported by the UN Committee on the Rights of the Child. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography notes specifically the Hague Intercountry Adoption Convention in its Preamble.

15. In 2002 the United Nations General Assembly adopted the Resolution 'A World Fit for Children',[3] reaffirming its commitment to address issues emerging from, in particular, the **United Nations Millennium Declaration**[4] through national action and international co-operation. In order to achieve its goals, the General Assembly resolved to "protect children from adoption and foster care practices that are illegal, exploitative or that are not in their best interests."[5]

II. PURPOSE OF THE INTERCOUNTRY ADOPTION TECHNICAL ASSISTANCE PROGRAMME

16. In order for the 1993 Hague Convention to operate successfully, it is essential that the initial steps necessary for its effective implementation within each Contracting State be carefully planned. The Convention places heavy burdens of responsibility on States of Origin, and implementation and technical assistance may be particularly vital in countries that have few resources available for this purpose.

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[2] CRC Article 21: "States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall [. . . safeguards set out in sub-Articles (a), (b), (c) and (d)] (e) [p]romote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavours, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs."

[3] A/RES.S-27/2, 11 October 2002, A World Fit for Children.

[4] Resolution 55/2.

[5] See point 44(12) of A/RES.S-27/2.

17. The States Parties to the Convention have entrusted the Secretariat of the Hague Conference (the Permanent Bureau) with the responsibility of monitoring and reviewing the operation of the Convention in the different Contracting States and of providing States with assistance to help ensure its effective implementation and operation. The Permanent Bureau has unrivalled experience in assessing country compliance with Hague standards as well as the expertise of persons who have been involved in a number of country missions - including those that have been involved in the drafting of the Convention itself and with considerable experience with Central Authority practice. Hague Teams have undertaken missions to various countries (*inter alia* Albania, Armenia, Belarus, Brazil, China, Colombia, Guatemala, Kenya, Paraguay, Romania, Ukraine, Viet Nam) to advise on adoption and related child protection matters and have received and advised delegations from around the world.

18. The Intercountry Adoption Technical Assistance Programme (TAP), first proposed in the 2002-2003 Supplementary Budget of the Hague Conference, was designed to provide assistance directly to the Governments of certain States which are planning ratification of, or accession to, the Convention, or which have ratified or acceded but are experiencing difficulties with implementation of the Convention.

III. ASSISTANCE

19. The Intercountry Adoption Technical Assistance Programme is operated directly by the Permanent Bureau, utilising staff and resources dedicated to this project, as well as international consultants and experts. The use of a pilot programme enables the Permanent Bureau to review at periodic intervals the effectiveness of the programme, and to keep Member States updated on the progress of the project.

20. An initial grant by the Government of the Netherlands and subsequent support by the Governments of the United States of America and Australia assisted with the Implementation Assistance Programme staff and running costs for two pilot States through December 2008.[6] Recognising that the base costs for the programme are the most substantial, additional countries could be added at a lower per country costs for a larger programme should States wish to contribute to a pilot project involving three or more countries.

21. There has been large interest in the programme, and the legal tools, frameworks and information developed during the pilot phase for **Guatemala** in particular and subsequently for **Kenya,** will be very useful when the programme is expanded. It is anticipated that the next phase of the programme will provide assistance to one or two States in the Asia-Pacific region, Africa and / or Latin America.

22. Initial discussions in respect of providing technical assistance have been held with authorities in Convention State Party **Cambodia**; and non-States Parties **Malawi, Nepal** and **Viet Nam**.

23. Further difficulties have been identified in Convention States Parties **Belarus**, **Costa Rica**, **El Salvador**, **Panama**, and **Thailand**; and non-States Parties **Ethiopia**, **Haiti**, **Indonesia**, **Lesotho, the Russian Federation** and **Ukraine**.

24. Specific requests for assistance have been received from authorities in Convention States Parties **Azerbaijan**, **the Dominican Republic** and **South Africa**; and non-State Party **Mozambique**.

25. During Phase II of the programme, in order to continue the programme, ensure continuity, and allow for developments, additional funding will be needed for the Programme Co-ordinator and programme running costs. If the TAP is to expand to

[6] The full costs for Programme Staff are not fully funded through Phase II.

address the needs of more States, additional costs per country will also be needed as well as additional legal support staff. **See the detailed budget *infra V***, which sets out the costs for the programme through 2010. With a view to the expanded nature of the programme, these costs include the addition of legal and administrative staff to the technical assistance team.

IV. PHASES

A. PHASE I - RESEARCH AND DEVELOPMENT
STATUS - COMPLETED
TIMELINE - 1 DECEMBER 2006 - 31 MAY 2007

STAGES

- Established programme development team.
- Formulated programme development plan.
- Identified 2 target countries for assistance (Guatemala and Kenya).
- Held detailed discussions with the relevant authorities.
- Development of initial training / assessment materials for use in assisting countries with effective implementation of the Convention, including the Guide to Good Practice on Implementing Measures. The Guide sets out information in respect of the framework of the Convention, institutional structures, including Central Authorities, national and international frameworks, legal issues surrounding implementation, post-adoption matters, and preventing abuses of the Convention. Subsequent Parts of the Guide, including Accreditation and Central Authority Practices, are anticipated.
- Further follow-up from the September 2005 Special Commission to review the operation of the Intercountry Adoption Convention.

B. PHASE II - PILOT PROGRAMME
STATUS - IN PROGRESS
TIMELINE - 1 JUNE 2007 - 31 DECEMBER 2008

STAGES: ASSESSMENT AND EXECUTION

- Continuation of the development of the Guides to Good Practice including subsequent parts (Accreditation and Central Authority Practices).
- Establishment of implementation team and identification of in-country key contacts, experts and researchers.
- Initial on-the-ground assessment of country conditions, child trafficking and exploitation concerns, current institutional system, status of child welfare and adoption programs. Identification of necessary changes relating to new safeguards, personnel issues and financial obstacles. Development of implementation plan.
- Development of implementation and technical assistance plan.
- Preparation of ancillary training materials, including country specific programme information.
- Initial execution of implementation plan in target countries. Formal training sessions will be held with local personnel. Advice and guidelines on implementing measures, including legislation and procedural safeguards. Advice on legal implications of the Convention. Communication initiated with other States in co-operative international framework. Evaluation criteria will be instituted. Advice and assistance concerning the establishment, resourcing, staffing and training of the Central Authority. Advice and assistance in establishing effective procedures for the accreditation, approval and review of adoption intermediaries.
- Review and evaluation of the pilot programme. Interviews with expert personnel will help determine if revisions to the programme are necessary.
- Report to target countries, States Parties to the Convention and funders.

SUMMARY TO DATE:

26. The pilot programme, which is Phase II of the development of the technical assistance programme for the Intercountry Adoption Convention, is designed to put into practical effect the strategies set out in the Guide to Good Practice. Following a programme of internal assessment and assisted implementation, States are provided with guidance on legal matters, structuring of effective child welfare programmes and child protection measures related to adoption, the use of accredited bodies and approved persons, and the development and funding of a Central Authority.

27. Specifically under Phase II technical support and assistance has already been given directly to the Government of Guatemala and initial support has been given to the Government of Kenya, with the agreement of the governmental authorities and with the support of the UN Committee on the Rights of the Child[7] and UNICEF offices in the respective countries.

28. The Permanent Bureau provided the Government of Guatemala, after being invited by its authorities and in consultation with them, and in co-operation with an international advisory group from Colombia, Germany, Norway, Spain and the United States of America, with guidance on legislation matters, and specifically on the drafting of its adoption law. The Advisory Group is continuing to monitor the development of the new law in light of the principles and obligations of the 1993 Hague Convention.

29. Following this work, the Permanent Bureau carried out a mission in Guatemala, in July 2007, with the participation of delegations from Colombia and the United States of America. The first objective of the mission was to discuss implementing legislation with the Congress and provide legal advice. The second objective was to inform key actors about the operation of the Hague Intercountry Adoption Convention. In order to do so, a series of workshops was organised with UNICEF and the Guatemalan Ministry of Foreign Affairs. The last objective was to discuss the Technical Assistance Programme which was proposed to Guatemala by the 2003 Expert Group.[8]

30. The mission was followed up with a meeting in September 2007 in The Hague with the representatives of the Central Authorities of Belgium, Chile, Colombia, France, Guatemala, Netherlands, Norway, Spain, Sweden, Switzerland, United Kingdom and the United States of America. During this meeting these Central Authorities recalled their willingness to assist Guatemala in implementing the Hague Intercountry Adoption Convention. Several countries expressed their willingness to provide support through training by their experts and / or written materials, and specific projects of co-operation were presented by the United States of America and Chile.

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[7] The Committee on the Rights of the Child included in its recent Concluding Observations that Kenya "seek technical assistance from the Hague Conference on Private International Law" in respect of intercountry adoption (see Article 41(d) of the Concluding Observations, CRC/C/KEN/CO/2, 2 February 2007, available at <http://www.ohchr.org/english/bodies/crc/docs/co/CRC_C_KEN_CO_2.pdf>). The Committee suggested that Guatemala "seek urgent technical assistance from the Hague Conference on Private International Law on the development of national legislation as well as its practical application" in respect of intercountry adoption (see Article 28 of the Concluding Observations, CRC/C/OPSC/GTM/CO/1, 8 June 2007 available at <http://www.ohchr.org/english/bodies/crc/crcs45.htm>.

[8] A group of experts from Belgium, Canada, France, Germany, Ireland, Netherlands, Norway, Spain, Sweden, Switzerland, United Kingdom and the United States of America meet in The Hague on 20 May 2003 in order to co-ordinate intercountry adoption assistance to Guatemala, with the Permanent Bureau involvement.

31. In respect of Kenya, initial discussions have been undertaken with the Office of the Vice President and Ministry for Home Affairs, the Chief Justice of Kenya, and with UNICEF with a view to providing technical assistance, including legislative advice and work with the judiciary. A first stakeholder discussion session and information session for the judiciary will be convened in early 2008.

32. In ensuring that national implementing measures effectively implement and comply with the procedures and standards set by the Hague Convention, the intercountry adoption legal team developed a number of tools to assist national authorities with the implementation process, including detailed suggestions for implementing legislation. These tools may be adapted and applied to different national situations. The 'Hague' approach takes full account of the need to integrate the intercountry adoption process within the broader child care and protection system.

C. PHASE III - OPERATIONAL TECHNICAL ASSISTANCE PROGRAMME
STATUS – IN PLANNING STAGES
TIMELINE – FROM 1 JANUARY 2009

STAGES: FOLLOW-UP FOR PILOT COUNTRIES

- Review of progress in implementing the Convention in the pilot countries, monitoring of the functioning of the Convention and addressing any difficulties that may arise.
- Continued assistance (including targeted training) to the Central Authority, other public bodies, judges and other relevant professional, non-governmental organisations and local experts. Assistance with the development of a programme of information for local beneficiaries.
- Local personnel will be prepared to take over active monitoring and assessment functions, and encouraged to engage actively with other States for the continual improvement of the programme.

STAGES: OPERATIONAL TECHNICAL ASSISTANCE PROGRAMME

- Under Phase III, a fully operational technical assistance programme will be available with requests for assistance handled on an as-needed basis. The implementation and technical assistance programme will develop into a continuing, and self-sustaining, programme. The infrastructure, materials and expertise developed during the pilot programme will be available upon request for other countries.

V. PROJECTED BUDGET TO CONTINUE THE INTERCOUNTRY ADOPTION TECHNICAL ASSISTANCE PROGRAMME (TAP)[9]

		EUROS
1.	**FY JULY 2007- JUNE 2008 (PHASE II)**	
	a. Intercountry Adoption Programme Co-ordinator (full-time)	25,000[10]
	b. Development, translation of implementation materials	2006 Dutch contribution
	c. Costs associated with assessment / training:	2006 Dutch contribution
	Travel / other costs for international assistance (2-3 States)	2007 American and Australian contributions
	d. Administration costs / meetings: Dutch contribution	2006 Dutch contribution
	e. Overheads, including office rental and equipment costs	7,000
	f. Assistance from in-country Government in respect of necessary administrative matters, provision of training facilities and necessary interpretation	In-kind contribution
	g. Assistance from Contracting States government experts and officials, including costs associated with their participation	In-kind contribution
	h. Expertise and assistance from the Permanent Bureau	In-kind contribution
	Sub-total	32,000

[9] Suggested States: Azerbaijan, Belarus, Cambodia, Costa Rica, Dominican Republic, El Salvador. Ethiopia, Guatemala, Haiti, Indonesia, Kenya, Lesotho, Malawi, Mozambique, Nepal, Panama, Russian Federation, South Africa, Thailand, Ukraine, Viet Nam.

[10] Note that the contribution from the Government of the Netherlands provided the salary for a part-time position.

2. **FY JULY 2008- JUNE 2009 (PHASES II AND III)**

a.	Intercountry Adoption Programme Co-ordinator	55,000
b.	Additional Legal Officer	45,000
c.	Administrative Assistant	36,000
d.	Development, translation of implementation materials	15,000
e.	Costs associated with assessment / training:	360,000
	Travel / other costs for international assistance (4-8 States)[11]	
f.	Costs associated with compensation for in-country expert assistance and expert consultancy fees[12]	72,000
g.	Administration costs / costs associated with team meetings at The Hague and in-country	20,000
h.	Overheads, including office rental, equipment costs and necessary correspondence (phone and fax)	20,000
i.	Assistance from in-country Government in respect of necessary administrative matters, provision of training facilities and interpretation as needed	In-kind contribution
j.	Assistance from Contracting States Government experts and officials, including costs associated with their participation	In-kind contribution
k.	Expertise and assistance from the Permanent Bureau	In-kind contribution
	Sub-total	623,000

[11] Travel cost for implementation team of 3 specialists to travel three times to each country (maximum 8 countries) (approximately 15,000 Euros per mission). Per team member per trip 4,800 Euros (approximately 1,200 travel costs; 1,200 hotel costs 10 days; 1,000 *per diem* 10 days; 1,400 compensation 10 days). Each of the target countries will have a different combination of members of the Team, based on the members' country expertise, and costs may vary dependent on local conditions in each country.

[12] Estimate 3,000 per expert for a 10-day mission. Necessary in-country travel costs, necessary hotel costs and per day compensation.

3. **FY JULY 2009- JUNE 2010 (PHASE III)**

a.	Intercountry Adoption Programme Co-ordinator	58,000
b.	Additional Legal Officer	47,000
c.	Additional Legal Officer	45,000
d.	Administrative Assistant	38,000
e.	Development, translation of implementation materials	20,000
f.	Costs associated with assessment / training:	675,000
	Travel / other costs for international assistance (9-15 States)[13]	
g.	Costs associated with compensation for in-country expert assistance and expert consultancy fees	135,000
h.	Administration costs / costs associated with team meetings at The Hague and in-country	20,000
i.	Overheads, including office rental, equipment costs and necessary correspondence (phone and fax)	25,000
j.	Assistance from in-country Government in respect of necessary administrative matters, provision of training facilities and interpretation as needed	In-kind contribution
k.	Assistance from Contracting States Government experts and officials, including costs associated with their participation	In-kind contribution
l.	Expertise and assistance from the Permanent Bureau	In-kind contribution
	Sub-total	1,063,000
	Total TAP	**1,718,000**

[13] Travel cost for implementation team of 3 specialists to travel three times to each country (maximum 15 countries).

PROJECT 2

THE INTERNATIONAL CHILD ABDUCTION AND CHILD PROTECTION ASSISTANCE PROGRAMME

I. BACKGROUND

33. The Permanent Bureau has been entrusted by the Member States of the Hague Conference, as well as by the Contracting States to the Hague Conventions, with the responsibility of monitoring and reviewing the operation of Hague Conventions in the different Contracting States and of providing States with assistance to help ensure their effective implementation and operation.

34. Through this mandate the Permanent Bureau focuses on identifying weaknesses or needs in States or where a Hague Convention is about to come into operation; considering what the Hague Conference is able to offer itself and in co-operation with others (States Parties, Regional Bodies or NGOs) in the way of training and technical assistance; and examining how to access any necessary funding.

35. In identifying weaknesses or needs in States, the Permanent Bureau may be alerted by Contracting States experiencing difficulties with other Contracting States or the Permanent Bureau may be contacted for assistance by the State experiencing difficulties itself. Following such a request further investigations and consultations may be undertaken by a Member of the Permanent Bureau, or by an expert requested to act on behalf of the Permanent Bureau, to identify the strengths and weaknesses of the State as well as to identify regional and national experts and organisations that may be able to assist in subsequent missions and training.

II. PURPOSE OF THE PROJECT

A. INTERNATIONAL CHILD ABDUCTION

36. **The *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*** (80 States Parties) provides a practical means whereby a parent whose child has been unlawfully removed or retained abroad may through the Central Authority system apply for an order for the prompt return of the child normally to the country of the child's habitual residence. **Once a country accedes to the Convention, there is an expectation in other countries that the new Contracting State will be in a position to meet its basic obligations of returning children in the circumstances set out in the Convention**. For this reason it is always advisable that Contracting States have their implementing measures (legal and administrative) in place as soon as possible, as well as to facilitate other States acceptance of the accessions.

37. The Convention is based on a system of administrative authorities in Contracting States, **Central Authorities**, which have a duty to co-operate with one another to secure the prompt return of children. Central Authorities are significant **sources of information and expertise** and should be utilised in considering ways to improve education and training opportunities. A **'twinning' arrangement** could occur if a developing Central Authority sought assistance from an experienced Central Authority. Funds could be sought from the foreign aid budget. The experienced Central Authority may then provide advice, materials, training and possibly an exchange of personnel for practical training and experience.[14]

[14] The Guide to Good Practice, Part I Central Authority Practices, 2002. See also Part II Implementing Measures, and Part III Preventive Measures. Further sections of the Guide are currently under development in respect of enforcement of orders made under the Child Abduction Convention, and transfrontier access/contact issues.

38. Similarly the Convention depends heavily on a well-equipped **Judiciary with a full understanding of the operation of the Convention**.[15]

39. **Under the 1980 Child Abduction Convention, a focus has been on identifying the States where weaknesses or needs exist or where the Convention is about to come into operation.**

40. In respect of countries that are not yet Contracting States to the Child Abduction Convention but that intend to join the Convention, for example India, it is hoped that it will be possible to provide an expert team prior to the drafting of implementing legislation as well as to assist with judicial information programmes and Central Authority infrastructures. It is anticipated that it will be possible to also twin several Contracting States with India, however this will require extensive administrative assistance from The Hague.

41. In respect of States where weaknesses or needs exist, for example in Thailand the necessary implementing legislation has been prepared but has not yet come into force. Discussions have ensued with Senior Officials in the Department of International Affairs in respect of the possibility of assisting with training personnel whose responsibility it is to apply the Convention in Thailand. Officials in another Contracting State have indicated that they are prepared to assist with financial and expert assistance in a type of Central Authority twinning programme. This undertaking will require administrative assistance.

42. In several geographical regions, such as **Latin America, Africa** and the **Asia-Pacific**, certain States in the region may be willing to 'twin' with States experiencing difficulties in the region.

43. **The Centre will play a significant role in co-ordinating these assistance and twinning efforts by establishing a systematic programme in respect of scientific and administrative issues to be considered.**

44. **In addition it would be useful to be in a position on a routine basis to offer new Contracting States to certain Conventions a package of assistance, including the possibility of technical advice and training.**

B. INTERNATIONAL CHILD PROTECTION

45. Ongoing work and consultations in different regions, particularly in Africa, Latin America and the Asia-Pacific, have shown clearly the need for the development of **more cohesive inter-State and inter-regional co-operation focussing on the civil aspects of child protection**. Much important work is being carried out in the criminal sphere, but not enough is being done to develop the structures needed for effective inter-State co-operation (at judicial and administration levels) directed towards protecting the victims of cross-border displacement. In this context it is now increasingly being recognised that the ***Hague Convention of 19 October 1996 on Jurisdiction,***

[15] In this context, the importance of the International Child Abduction Database (INCADAT) and the Judges' Newsletter on International Child Protection may be noted, both of which strive to improve consistent interpretation of the 1980 Convention and the spread of best practices.

Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (15 States Parties and 20 Signatory States) has an important role to play.[16]

46. Co-operation in the 1996 Convention provisions provide a basic framework for the exchange of information and for collaboration between administrative (child protection) authorities in the different Contracting States (*e.g.*, assistance in locating children, exchange of information concerning children at risk, transfer of cases between jurisdictions where this is in the child's interests). The co-operation provisions provide the framework for a global child protection network at the State level, which benefits many categories of at-risk children, including refugee children, exploited or abused children, runaways, asylum seekers, displaced persons, as well as children who are the subjects of cross-border parental disputes over custody or contact.

47. It is anticipated that assistance will be offered to States on a broad basis considering or newly State Party to the 1996 Hague Child Protection Convention. This in particular may take the form of assistance with implementing legislation, and may be undertaken on a regional basis. As an example, intensive work is ongoing under the regional initiative the **Special Programme for Latin American States** involving analysis of implementation issues to assist States in the region in the process of ratification / accession.[17]

48. Following both regional seminars for African States, wide interest in the 1996 Convention has been expressed. Continued promotion and development of the Child Protection Convention will be undertaken under the umbrella **Hague Project for Africa**.[18]

49. There has also been strong interest by States to become involved in the **'Malta Process'**[19] as well as by States in the **Asia-Pacific Region**[20] to be assisted in their consideration of the 1996 Convention.

III. ASSISTANCE

50. In 2002 the United Nations General Assembly adopted the Resolution 'A World Fit for Children',[21] reaffirming its commitment to address issues emerging from, in particular, the **United Nations Millennium Declaration**[22] through national action and international co-operation. In order to achieve its goals, the General Assembly resolved to **"address cases of international kidnapping by one of the parents"**[23]; to **"provide protection and assistance to refugees and internally displaced persons, the majority of**

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[16] The 1996 Child Protection Convention addresses a wide range of international child protection issues from parental disputes over custody or contact to the protection of runaway teenagers; from jurisdiction in respect of refugee or internationally displaced children to the placement of children abroad in foster or institutional care; from the law applicable in determining who has parental responsibility in respect of a child to the recognition of specific powers of representation. The uniform rules set out in the 1996 Convention allow any country where a child is present to take necessary emergency or provisional measures of protection; determine which country's laws are to be applied and which authorities are competent to take the necessary measures of protection; give primary responsibility to the authorities of the country where the child has his or her habitual residence; avoid the possibility of conflicting decisions and provide for the recognition and enforcement of measures taken in one Contracting State in all other Contracting States.

[17] See Project 4, The Special Programme for Latin American States.

[18] See Project 5, The Hague Project for Africa.

[19] See Project 3, Cross-Frontier Child Protection and Family Law Issues involving Certain Hague Convention States and Certain Non-Hague States from within the Islamic Tradition ('The Malta Process').

[20] See Project 6, The Asia-Pacific Regional Initiative.

[21] A/RES.S-27/2, 11 October 2002, A World Fit for Children.

[22] Resolution 55/2.

[23] See point 44(13) of A/RES.S-27/2.

whom are women and children, in accordance with international law, including international humanitarian law"[24]; and, to **"monitor and share informational regionally and internationally on the cross-border trafficking of children"**.[25] The Hague assistance programme holds the potential to implement several of the Resolutions, as well as help to practically implement many of the obligations set out in the UN Convention on the Rights of the Child.

51. Funding and in-kind assistance is being sought to provide co-ordinated assistance under the 1980 and the 1996 Conventions. This will likely take the form of **investigations and consultations, judicial seminars, assistance with training and administrative assistance with possible twinning programmes.**[26]

52. **The anticipated costs for the initiative through June 2009 are estimated at 30,600 Euros, *infra* Section IV.**

IV. PROJECTED BUDGET FOR THE NEXT PHASES OF THE PROJECT

	INTERNATIONAL CHILD ABDUCTION	**EUROS**
	FY JULY 2007- JUNE 2008	
1.	Implementation assistance for 1 State experiencing difficulties	
	a. One National Judicial Seminar	
	i. Assistance / facilitators[27]	3,900
	ii. Co-participation in costs related to Seminars, normally covered by the National Governments and regional organisations	2,000
	iii. Expertise from other Contracting States in respect of judicial matters under the Convention	In-kind contribution[28]
	b. Central Authority support	
	i. Expertise from other Contracting States in respect of Central Authority practices	In-kind contribution
	ii. Co-ordination from The Hague in respect of 'twinning' arrangements for Central Authorities	Ongoing
	Sub-total	5,900
2.	Development of an implementation assistance packet (translations and publication costs)	7,000
	Sub-total	**12,900**

[24] See point 44(17) of A/RES.S-27/2.
[25] See point 44(46) of A/RES.S-27/2.
[26] See also the ongoing work under the Special Programme for Latin American States, Project 4.
[27] Travel cost for team of 2 specialists to travel once to one country. Per team member per trip 1,950 Euros (approximately 1,200 travel costs; 500 hotel costs 5 days; 250 *per diem* 5 days).
[28] It is anticipated that some funding may be made available through in-kind contributions, for example through Judicial or Central Authority expertise from a particular Country.

FY JULY 2008- JUNE 2009

1. Implementation assistance for 1 State experiencing difficulties and one new Contracting State or State considering becoming Party

a. Three National Judicial Seminars (two Seminars for the new State)

i. Assistance / facilitators	11,700
ii. Co-participation in costs related to Seminars, normally covered by the National Governments and regional organisations	6,000
iii. Expertise from other Contracting States in respect of judicial matters under the Convention	In-kind contribution

b. Central Authority support

i. Expertise from other Contracting States in respect of Central Authority practices	In-kind contribution
ii. Co-ordination from The Hague in respect of 'twinning' arrangements for Central Authorities	Ongoing
Sub-total	**17,700**

INTERNATIONAL CHILD PROTECTION: TO BE ADDRESSED UNDER THE UMBRELLA REGIONAL INITIATIVES

TOTAL	**30,600**

PROJECT 3

CROSS-FRONTIER CHILD PROTECTION AND FAMILY LAW ISSUES INVOLVING CERTAIN HAGUE CONVENTION STATES AND CERTAIN NON-HAGUE STATES FROM WITHIN THE ISLAMIC TRADITION ("THE MALTA PROCESS")

I. BACKGROUND

53. The Hague Conference has been asked to keep under review the development of bilateral arrangements between Hague and non-Hague States which provide remedies, or promote co-operation, in the context of cross-frontier parental abductions or parental disputes over contact with children. A Research Paper on this subject was presented at a Special Commission meeting in The Hague in October / November 2002, called to review a number of aspects of the operation of the 1980 Convention.[29] That Paper surveys 11 of the existing bilateral arrangements involving Australia, Egypt, Belgium, Morocco, Tunisia, Canada, Lebanon, France and Algeria.

54. That initial review suggested that the bilateral arrangements which were having most success were those which offered procedures for promoting and facilitating agreed solutions between the family members concerned. The research also pointed out that what was lacking was an effective legal structure to provide a framework within which agreement can be negotiated safely and fairly, which is capable of giving effect to such agreements and which will provide remedies where agreement is not possible.

55. It was therefore felt that there was a need to intensify the search for common legal principles, which would constitute the beginning of a rule of law for those States that are not yet ready to join the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*[30] or the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children*.[31]

56. It is in this context that a first Judicial Conference on Cross-Frontier Family Law Issues involving certain Hague Convention States and certain non-Hague States from within the Islamic tradition, was organised by the Hague Conference on Private International Law in collaboration with the Government of Malta, and was held in St. Julian's, Malta, from 14-17 March 2004. This first Malta Judicial Conference was attended by nearly 50 experts including senior judges, high ranking government officials from 14 States and four Organisations.[32]

57. The first Malta Conference moved towards the approval of the common set of principles, embodied in a Declaration made by those present. These principles contain possible building blocks for the development of a legal framework – "a rule in the Law". There is for example recognition of the need to develop common jurisdictional standards and to give mutual respect to decision made on those bases. There is recognition too of the fact that speed is of essence in cases where parent and child have been separated. The Declaration also recognises the importance to continue the process of dialogue, with the assistance of the Hague Conference in co-operation with other international organisations, with a view to the progressive elaboration and implementation of the conclusions embodied in the First Malta Declaration.[33]

58. A Second Malta Judicial Conference was held from 19 to 22 March 2006 and was

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[29] Child Abduction and Transfrontier Access: Bilateral Conventions and Islamic States - a Research Paper, Prel. Doc. No 7 of August 2002 for the attention of the Special Commission of September / October 2002.
[30] 80 States Parties to date.
[31] 15 States Parties and 20 Signatory States to date.
[32] Attended by Algeria, Belgium, Egypt, France, Germany, Italy, Lebanon, Malta, Morocco, the Netherlands, Spain, Sweden, Tunisia, United Kingdom, European Commission, Council of the European Union, International Social Service and Reunite.
[33] See the Declaration: The Malta Judicial Conference on Cross-Frontier Family Law Issues at < www.hcch.net > -> "Child Abduction Section" –> "Judicial Seminars on the International Protection of Children".

attended by 80 experts including senior judges, high ranking government officials and Central Authority personnel from 19 States, the Commission, the Parliament and the Council of the European Union and several non-governmental organisations.[34]

59. The Second Malta Conference discussed and built upon the conclusions contained in the First Malta Declaration and considered, in particular the:

- possible common basis for the exercise of jurisdiction in respect of child protection matters;
- idea of establishing a Central Authority as a focal point for inter-State co-operation; issues of information exchange and training (including judicial training);
- way to ensure that international child protection matters are dealt with in each country by officials and judges with the necessary experience and expertise;
- development of mechanisms which promote agreed solutions between the parties;
- range of measures which may be employed to prevent conflicts from arising; and
- next possible steps to be taken at the multilateral level to develop the legal infrastructure necessary for effective cross-frontier child protection.

60. The Second Malta Declaration, approved by all participants, reaffirmed and endorsed the principles contained in the First Malta Declaration. Particularly important was that the Second Declaration noted the fact that several States were considering implementation of the uniform rules of jurisdiction as set out in the 1996 Hague Child Protection Convention. It also recognised the important initiative of several States to create specialised family courts and the movement towards concentration of jurisdiction.[35]

61. The Malta Process has been seen to advance development of a co-operative framework for the resolution of difficult cross-border family disputes involving States from within the Islamic tradition, with a focus on the protection of cross-frontier rights of contact / access of parents and their children and the problems posed by the parental abduction of children between the States concerned.

II. PURPOSE OF THE PROJECT

62. The next stage of the Project in respect of **cross-frontier child protection and family law issues involving certain Hague Convention States and certain non-Hague States from within the Islamic tradition** involves the convening of an expanded regional initiative. The Permanent Bureau is currently discussing with regional authorities the possibility of holding a Judicial Conference focusing on the themes addressed within the 'Malta Process'. The proposal being discussed is one which would involve a wider range of 'non-Hague Convention' countries, particularly from the Arab world. This would open the possibility of discussing regional initiatives as well as continuing to develop and broaden support for the principles contained in the Malta Declarations.

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[34] Attended by Algeria, Australia, Belgium, Canada, Egypt, France, Germany, Indonesia, Lebanon, Libya, Malaysia, Malta, Morocco, the Netherlands, Sweden, Tunisia, Turkey, United Kingdom, United States of America, European Commission, European Parliament, Council of the European Union, International Social Service, International Centre for Missing and Exploited Children and Reunite.

[35] See Declaration Second Malta Judicial Conference on Cross-Frontier Family Law Issues at < www.hcch.net > -> "Child Abduction Section" –> "Judicial Seminars on the International Protection of Children".

63. The third Conference in the Malta series will be well placed to advance the dialogue among Judges and Governmental experts, which has occurred within the 'Malta Process', both in involving a wider range of States and in progressing the search for a shared legal basis for judicial co-operation. It will continue to identify and elaborate the building blocks for **the development of a legal structure which will provide a firm basis for judicial co-operation** and which will **provide parents with a secure international framework within which to resolve their differences**. This will include consideration of relevant Hague Conventions, as well as bilateral and possible regional initiatives.

64. In line with the Malta Process, the focus of the next phase will be on cross-frontier issues of family law, in particular **the protection of children whose parents live in different countries**. The dialogue will develop **how best to secure continuing contact between the child and both parents, how to respond to the unilateral removal of a child from one country to another, as well as the recovery of child support / maintenance across frontiers**. This will likely involve intensification of the discussion of 'habitual residence' as an agreed basis for exercising jurisdiction.

65. Other important items which will be further developed include:

- the development of closer **co-operation and networking among the judiciaries** both regionally and globally;
- the development of **inter-State administrative co-operation** both regionally and globally;
- measures to **prevent abduction or abuse of visiting rights** and **promote parental co-operation and agreement**;
- practical arrangements needed to **facilitate transfrontier visits**;
- the **exchange of information** concerning the laws and practices of the different legal systems.

III. ASSISTANCE

66. This phase of the Project holds the potential to implement Resolutions set out by the United Nations General Assembly to address issues emerging from the **United Nations Millennium Declaration on a regional basis**,[36] as well as help to practically implement many of the obligations set out in the UN Convention on the Rights of the Child.[37]

67. The first two initiatives under this Project received significant support from Hague Conference Member States.[38] It is envisaged that the participants at the **2008**

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[36] In 2002 the United Nations General Assembly adopted the Resolution 'A World Fit for Children' (A/RES.S-27/2, 11 October 2002, A World Fit for Children) reaffirming its commitment to address issues emerging from, in particular, the United Nations Millennium Declaration (Resolution 55/2) through national action and international cooperation. In order to achieve its goals, the General Assembly resolved to "address cases of international kidnapping by one of the parents" (See point 44(13) of A/RES.S-27/2).

[37] Most, although not all countries from within the Islamic tradition stipulate in their reservations to the CRC that their adherence to the treaty will be only so far as the CRC aligns with shari'a. The Hague Child Protection Conventions may be seen as practically implementing many of the CRC principles. 1980 Hague Child Abduction Convention in part implements CRC Articles 11 and 35; it helps to give effect to the fundamental rights of the child, such as those expressed in CRC Articles 9.3 and 10.2, and has been found in a number of court decisions in different parts of the world to be consistent with national Constitutions, as well as regional and international human rights instruments. The 1996 Convention reflects the "best interests of the child" principle set out in CRC Article 3; it also offers States a practical means of fulfilling, at least in part, the obligations of co-operation which arise under various Articles of the CRC, such as Articles 21(e), 22, 34 and 35.

[38] Financial contributions were made to enable certain States to attend in March 2004 by Germany, the Netherlands, Sweden and the United Kingdom (England and Wales); and in March 2006 by Germany, the Netherlands, Sweden and the United Kingdom (England and Wales).

Conference will include **two Judges from each of a broader range of States as well as a senior official having policy responsibilities** in the areas to be discussed.

68. The countries invited to participate will be those that took part in or were invited to the second Malta Conference: **Algeria, Australia, Belgium, Canada, Egypt, France, Germany, Indonesia, Italy, Jordan, Lebanon, Libya, Malaysia, Malta, Morocco, Netherlands, Pakistan, Portugal, Spain, Sweden, Tunisia, Turkey, United Arab Emirates, United Kingdom, United States of America**. In addition various States from the Gulf Region as well as relevant Regional Organisations (**the League of Arab States, Asian-African Legal Consultative Organization (AALCO), the African Union and the European Union**) and the **UN Committee on the Rights of the Child**, will also be invited to participate.

69. **The anticipated costs for the initiative are estimated at 107,000 Euros, *infra* Section IV.**

70. It is proposed that following the Conference, in the subsequent Financial Year, a **Special Adviser for the Middle East and North African (MENA) region** be secured for two days per week. This Adviser will work to raise awareness of the Hague Conference and Conventions in the region, as well as to identify specific needs. Focus in particular will be on the 1996 Hague Child Protection Convention. It is anticipated that this part-time position, based in the region and in co-operation with a regional organisation, would need funding of approximately 20,000 Euros (consultancy fees, communication costs, co-ordination meetings). It is anticipated that this position will grow gradually with the programme, to be integrated fully into the work of the Permanent Bureau.

IV. PROJECTED BUDGET FOR THE NEXT PHASE OF THE PROJECT

	REGIONAL INITIATIVE: CROSS-FRONTIER CHILD PROTECTION AND FAMILY LAW ISSUES INVOLVING CERTAIN HAGUE CONVENTION STATES AND CERTAIN NON-HAGUE STATES FROM WITHIN THE ISLAMIC TRADITION	**EUROS**
	FY JULY 2007- JUNE 2008	
1.	Judicial Conference concerning Cross-frontier Child Protection and related issues[39]	Fundraising ongoing
	a. Assistance with travel expenses for 45 participants (3 experts from 15 States)	45,000
	b. Assistance with travel expenses for 8 experts and Permanent Bureau	8,000
	c. Assistance with accommodation expenses for 4 nights	28,000
	d. Assistance with meals (4 lunches / dinners)	12,000
	e. Closing dinner	6,000
	f. Administrative and other logistical costs (including on-site administrative assistance)	8,000
	Sub-total	107,000
	FY JULY 2008- JUNE 2009	
1.	Special Adviser for the MENA region (Arabic-speaking) (2 days a week): work to raise awareness of the Hague Conference and Conventions in the region, as well as to identify specific needs and help to implement the 1996 Convention. Consultancy fees, communication costs, two co-ordination meetings in The Hague	20,000
	TOTAL	**127,000**

[39] States that have so far been involved in the process include: Algeria, Australia, Belgium, Canada, Egypt, France, Germany, Indonesia, Italy, Jordan, Lebanon, Libya, Malaysia, Malta, Morocco, Netherlands, Pakistan, Portugal, Spain, Sweden, Tunisia, Turkey, United Arab Emirates, United Kingdom, United States of America.

PROJECT 4
THE SPECIAL PROGRAMME FOR LATIN AMERICAN STATES

I. BACKGROUND

71. Following from the Conclusions and Recommendations agreed at the December 2004 Latin American Judges' Seminar on the *Hague Convention of 25 October on the Civil Aspects of International Child Abduction*,[40] the Permanent Bureau has developed a Special Programme for Latin American States focused on reinforcing the operation of the Hague Conventions and promoting the participation of Latin American States in the work of the Hague Conference.

72. A former member of the Argentine Ministry of Foreign Affairs has assumed the role of Hague Conference Liaison Legal Officer for Latin America and has undertaken certain measures to support the regional efforts to strengthen the effective implementation and operation of the Hague Conventions and to implement the Special Programme for Latin American States. The first phase of the Programme was initially funded through voluntary contributions to the Supplementary Budget by the Member States of the Hague Conference. Additional assistance was provided by the Argentine Ministry of Foreign Affairs.

73. In 2006 Hague Conference Member States viewed the Special Programme to be a core component of the work programme of the Hague Conference and funding for the position of Liaison Legal Officer was moved to the Regular Budget of the Hague Conference. The Programme operating costs remain under the Supplementary Budget.

74. Phase I of the Special Programme (April 2005-June 2006) concentrated efforts on providing technical assistance to States in Latin America in respect of implementation of the Hague Children's Conventions,[41] particularly through visits to Central Authorities and convening national and international judicial seminars, in consultation and co-operation with the national governments of each State. In the context of the Special Programme, the Permanent Bureau assisted with and presented at judicial and interdisciplinary seminars on the Hague Conventions in 12 States, organised and principally funded by the national governments involved.[42] A second major Seminar for Latin American Judges was held in The Hague in December 2005 with the generous assistance of the Hague Forum for Judicial Expertise.[43] Phase I of the Special Programme resulted in the establishment of a regional judicial / Central Authority network, regional expansion of INCADAT and *The Judges' Newsletter*.

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[40] Attended by more than 90 Judges, Central Authority officials and other experts from 19 States in the Americas. The Seminar, held in Monterrey, Mexico, 1-4 December 2004, was co-organised by the Hague Conference, United States Department of State (Office of Children's Issues), Organization of American States, Law School of *Instituto Tecnológico y de Estudios Superiores de Monterrey*, American Bar Association Latin American Law Initiative Council, Texas-Mexico Bar Association, and the International Centre for Missing and Exploited Children. The Conclusions and Recommendations are available on the website of the Hague Conference at < www.hcch.net > –> "Child Abduction Section" –> "Judicial Seminars on the International Protection of Children".

[41] In particular the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (80 States Parties); the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (74 States Parties); the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* (15 States Parties and 20 Signatory States).

[42] Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Honduras, Mexico (Tijuana), Panama, Paraguay, Peru, Uruguay.

[43] The Hague Conference and the Hague Forum for Judicial Expertise co-organised The Hague Project for International Co-operation and the Protection of Children: Operation of the Hague Children's Conventions and Cross-Border Protection of Children within Latin America, held in The Hague 28 November-3 December 2005. The Seminar was attended by Judges from 16 States in the Americas. See Conclusions and Recommendations agreed at Seminars at < www.hcch.net > -> "Child Abduction Section" – "Judicial Seminars on the International Protection of Children".

75. Phase II of the Special Programme (July 2006-June 2007) saw an increased focus on all Hague Judicial and Administrative Co-operative Conventions. Special Programme Phase II visits to States in Latin America assisted in (i) increasing the visibility of the work of the Hague Conference in the region; (ii) assessing the operation of Hague Conventions within each State; (iii) identifying obstacles to effective implementation and discussing ways in which those obstacles may be removed; (iv) supporting and encouraging the implementation of Children's Conventions; (v) facilitating the participation of Latin American States in Special Commission Meetings; (vi) encouraging the accession to and ratification of Hague Conventions with special focus on judicial and administrative co-operation; (vii) providing information in respect of Hague Conventions currently being examined in certain States; (viii) reinforcing links with officials, judges and others with responsibility under the Hague Conventions; (ix) developing links with international organisations dealing with matters covered by Hague Conventions.

76. In respect of co-operation with other regional organisations, links with MERCOSUR,[44] IBERO-AMERICA and, in particular, the Organization of American States / *Instituto Interamericano del Niño* (IIN) have been strengthened. On 11 June 2006 at the seat of the IIN in Montevideo, the Secretary General of the Hague Conference on Private International Law and the Officer in charge of the Office of the IIN signed an Agreement of Co-operation between the two organisations. The Agreement sets out ways in which the two organisations might co-ordinate in the execution of activities concerning the Inter-American Program of Co-operation to Prevent and Remedy Cases of International Abduction of Children by One of their Parents in parallel with the Hague Special Programme for Latin American States, including through the development of activities for actors involved in implementing the legal instruments. It is to this end that the first joint IIN-HCCH Meeting was convened on 10 November 2006 in The Hague immediately following the Fifth Special Commission to review the practical operation of the 1980 Hague Convention. The joint meeting for States in the Americas focused on addressing concrete actions to implement agreed Conclusions and Recommendations from the Special Commission and identified topics to be developed by two working groups with a view to presentation and discussion at the 2007 Inter-American Meeting.[45]

II. PURPOSE OF THE PROJECT

77. **Phase III of the Special Programme (July 2007-June 2008)** intends to provide support in respect of the Hague Children's Conventions with a special focus on: (i) **implementation of some of the Conclusions and Recommendations of the Fifth meeting of the Special Commission** to review the practical operation of the 1980 Hague Convention and to consider some **implementation issues concerning the 1996 Hague Convention**,[46] and of the **Inter-American Expert Meeting**;[47] (ii) **implementation of some of the Conclusions and Recommendations of the**

[44] On 10 November 2006 the Ministers of Justice of Mercosur and Chile and Bolivia signed a Declaration promoting the approval by Mercosur and Associates States of the 4 Hague Judicial and Administrative Conventions, as well as the adoption of any necessary decision needed for their effective implementation.

[45] See "Conclusions and Recommendations of the Inter-American Expert Meeting on International Child Abduction" at – < www.hcch.net > -> "Child Abduction Section" –> "Judicial Seminars on the International Protection of Children".

[46] See in particular Conclusion 1.9.3 from the Fifth meeting of the Special Commission to review the operation of the 1980 Convention, available on the Hague Conference website at < www.hcch.net > -> "Conventions" -> "Convention 28" -> "Practical Operation Documents".

[47] Available on the Hague Conference website at < www.hcch.net > -> "Conventions" -> "Convention 28" -> "Practical Operation Documents". During Phase III national judicial seminars on international child abduction have already been convened by the respective Central Authorities with HCCH support in Colombia, Paraguay and Venezuela. Seminars have been confirmed in the US (binational US-Mexico) and Chile.

Second Special Commission meeting to review the practical operation of the 1993 Hague Convention, as well as (iii) continuing to **promote interest and involvement in the region in the final stages of the negotiations on the new Hague Convention** on the International Recovery of Child Support and other forms of Family Maintenance as well as in the coming promotion and implementing stage of the new Hague Convention adopted on 23 November 2007.[48] The Programme will also encourage and assist States in the **development of internal procedures to assist in the effective functioning** of the Hague Judicial and Administrative Co-operation Conventions.[49]

78. A continued intense effort in respect of **co-operation with regional organisations** in the work of the Hague Conference will be undertaken. A major follow-up meeting to the 10 November 2006 **IIN-HCCH Meeting** was convened in Buenos Aires in September 2007, attended by representatives of 17 States, to discuss implementation of the agreed conclusions and integration of the work of the Hague Conference into the IIN work programme. Following the conclusions agreed, the **IIN and HCCH will define concrete actions to integrate the work of the Hague Conference into the IIN Working Plan 2008-2010**, which will include among other issues the promotion of the Model Law on Rules of Procedure for the application of the Conventions on International Child Abduction; promotions of the Preliminary study on the 1996 Hague Convention; promotion of formal nominations of Liaison Judges[50] and assistance in developing the International Network of Liaison Judges in the Americas; and strengthening the Central Authorities and the national systems in respect of international child abduction.

79. A strong link under the Latin American Special Programme has also been made to support the **Intercountry Adoption Technical Assistance Programme**, in particular in respect of the Technical Assistance to **Guatemala** and other States in the Americas identified as experiencing difficulties.[51]

80. **Phase IV of the Special Programme** (July 2008-June 2009) intends to continue to promote and provide information and assistance in respect of the relevant Hague Conventions on Judicial and Administrative Co-operation (legalisation, service of documents, taking of evidence, access to justice), as well as to continue to develop the

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[48] Mercosur and Associate States included the new Convention as an item for discussion on a special session of the Ministers of Justice Meeting held in Montevideo in September 2007. Latin American States played a very active role during the Diplomatic Conference which concluded with the adoption of the new Convention on child support and other forms of family maintenance and its Protocol on Applicable Law.

[49] In particular the *Hague Convention of 15 November 1965 on the Service Abroad of Extrajudicial Documents in Civil or Commercial Matters* (56 States Parties); the *Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters* (44 States Parties); the *Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* (92 States Parties); and the *Hague Convention of 25 October 1980 on International Access to Justice* (23 States Parties). Following the Declaration made by the Ministers of Justice of MERCOSUR and Chile and Bolivia (10 November 2006) promoting the approval by Mercosur and Associates States of the four Hague Judicial and Administrative Conventions, specific Seminars addressing the Conventions were convened in Brazil and Peru. Furthermore, Brazilian and Uruguayan Authorities have indicated the intention to send three Conventions to Congress (Service, Evidence and Access to Justice), and Colombia has sent to Congress the Evidence Convention.

[50] Currently there are 15 Liaison Judges in Latin America, designated through both formal and informal nominations, in Argentina, Brazil,, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Mexico, Panama, Paraguay, Peru, Uruguay and Venezuela.

[51] See Project 1, the Hague Intercountry Adoption Technical Assistance Programme (TAP). The TAP pilot has provided assistance directly to the Government of Guatemala. The UN Committee on the Rights of the Child included in its recent Concluding Observations that Guatemala "seek urgent technical assistance from the Hague Conference on Private International Law on the development of national legislation as well as its practical application" in respect of intercountry adoption (see Article 28 of the Concluding Observations, CRC/C/OPSC/GTM/CO/1, 8 June 2007 available at <http://www.ohchr.org/english/bodies/crc/crcs45.htm>. Specific requests for assistance have been received from authorities in the Dominican Republic; further difficulties have been identified in Costa Rica, El Salvador, Panama and Haiti.

technical assistance programme for Latin American States in respect of implementation of Hague Conventions, in particular the Conventions concerning the cross-border protection of children addressing international child abduction (including the issue of access and mediation), intercountry adoption, child support and other forms of family maintenance and other matters of international child protection.

81. As a **country-specific sub-initiative**, it is hoped that it may be possible to provide implementation assistance in respect of several Hague Conventions to which Brazil is soon to become Party. On 20 September 2007, the Apostille, Service, Evidence and Access to Justice Conventions, as well as the Choice of Court Convention, were presented and discussed at a seminar in Brasilia, organised by the Ministry of Justice of Brazil. It is anticipated that the Apostille, Service, Evidence and Access to Justice Conventions will be sent to the Brazilian Congress in the near future, and it is hoped that immediate implementation assistance will be able to be provided to those charged with implementing the Conventions. To this end it is hoped to convene a one-week follow-up seminar for officials, practitioners and academia on the relevant Hague Conventions, in addition to the Hague Children's Conventions to which Brazil is Party,[52] supplemented by a general information session on Private International Law. The goal of the initiative would be to further deepen the understanding of all relevant Hague Conventions and to help develop a stronger Private International Law culture in Brazil. It is hoped that the costs relating to this sub-initiative will be supported by the Host State and / or by (a) co-operating organisation(s).

82. The **increased involvement of Latin American States** in the work of the Hague Conference has been viewed positively in the region, and the increased use of Spanish in communications and at meetings of the Special Commission has removed barriers and facilitated this involvement. Additionally, the co-operation offered by Judges and Central Authority officials at the various seminars and meetings promoted the helpful **exchanges on practice and operational issues**. It is to this end that the constructive dialogues will assist the Permanent Bureau of the Hague Conference to better address the concerns faced by countries in Latin America and, as a result, to strengthen the worldwide efforts to increase the international legal frameworks designed to protect children and administrative and judicial co-operative frameworks.

III. ASSISTANCE

83. The **Latin American Special Programme**, which may be viewed as a model for regional programmes, holds the potential to implement Resolutions set out by the United Nations General Assembly to address issues emerging from the **United Nations Millennium Declaration on a regional basis,**[53] as well as help to practically implement many of the obligations set out in the UN Convention on the Rights of the Child. **The Liaison Legal Officer for Latin America is now funded through the Regular Budget of the Hague Conference, however the operational costs for the Special Programme continue to need to be secured through voluntary contributions.** The Programme will continue to need supplementary budget funds for its operational 'running costs' of approximately 20,000 Euros per year. The Latin American Special Programme has been seen to be very effective in promoting the effective implementation of Hague Conventions throughout the region as well as assisting the Permanent Bureau to better address the concerns faced by countries in the Americas.

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[52] The 1980 Child Abduction and 1993 Intercountry Adoption Conventions.

[53] In 2002 the United Nations General Assembly adopted the Resolution 'A World Fit for Children' (A/RES.S-27/2, 11 October 2002, A World Fit for Children) reaffirming its commitment to address issues emerging from, in particular, the United Nations Millennium Declaration (Resolution 55/2) through national action and international cooperation. In order to achieve its goals, the General Assembly resolved to "address cases of international kidnapping by one of the parents" (See point 44(13) of A/RES.S-27/2).

84. Voluntary contributions to the Supplementary Budget by Hague Conference Member States have secured the operational costs for the Special Programme through Phase III (June 2008). **In order to ensure continuity to the Programme as well as continue to develop new initiatives it is necessary to raise the Programme costs for Phase IV (July 2008-June 2009).**

IV. PROJECTED BUDGET FOR THE NEXT PHASES OF THE PROJECT

	REGIONAL INITIATIVE: LATIN AMERICAN SPECIAL PROGRAMME[54]	**EUROS**
	FY JULY 2007 - JUNE 2008	
	PHASE III: IMPLEMENTATION OF THE REGIONAL PROGRAMME	
1.	Full-time Liaison Legal Officer[55]	Regular Budget
2.	Logistical programme support required: Costs associated with visits and seminars	Funding secured
		_____
	Sub-total	Funding secured through voluntary contributions by Member States
	FY JULY 2008 - JUNE 2009	
	PHASE IV: IMPLEMENTATION OF THE REGIONAL PROGRAMME	
1.	Full-time Liaison Legal Officer	Regular Budget
2.	Logistical programme support required: Costs associated with visits and seminars	
	a. Estimated travel expenses: 18 trips return from Buenos Aires, Argentina to Latin American States (on-demand and as follow-up visits to Phases I-III) and to The Hague, the Netherlands for Meetings of the Special Commissions, General Affairs and Policy and co-ordination meetings as necessary	9,500
	b. Estimated accommodation and *per diem* expenses: Latin American States: 120 Euros *per diem*, average 3 days for each State and visiting approximately 16 States (5,760)	9,960
	The Hague, the Netherlands: 150 *per diem*, average 4 weeks (4,200)	
	c. Extraordinary expenses: Exceptionally, co-participate in costs related to Seminars, which should normally be covered by the National Governments, regional organisations and NGOs	540
3.	Part-time Legal Assistant to the Liaison Officer	10,000
		_____
	Sub-total	30,000
	TOTAL	**30,000**

[54] Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela, as well as Canada, Spain and the United Sates of America.

[55] As in Phases I and II, the Government of Argentina (through the Ministry of Foreign Affairs) continues to assist with some logistical costs associated with the Special Programme for Latin America, including providing office space and assisting with related communication costs.

PROJECT 5
THE HAGUE PROJECT FOR AFRICA

PART ONE: THE HAGUE PROJECT FOR INTERNATIONAL CO-OPERATION AND THE PROTECTION OF CHILDREN IN THE SOUTHERN AND EASTERN AFRICAN REGION

I. BACKGROUND

85. To respond to the exponential growth of the geographical span and number of States and, above all, of the numbers of children and families affected by cross border child protection issues, the General Secretariat of the Hague Conference on Private International Law, the Permanent Bureau, has been carrying out exploratory work in Southern and Eastern Africa in the context of the Hague Project for Africa. The focus of this Project is the role of the Hague Conventions in the practical implementation of the UN Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child.

86. In 2002 the United Nations General Assembly adopted the Resolution 'A World Fit for Children',[56] reaffirming its commitment to address issues emerging from, in particular, the **United Nations Millennium Declaration**[57] through national action and international co-operation. In order to achieve its goals, the General Assembly resolved to "**protect children from adoption and foster care practices that are illegal, exploitative or that are not in their best interests**"[58]; to "**address cases of international kidnapping by one of the parents**"[59]; to "**provide protection and assistance to refugees and internally displaced persons, the majority of whom are women and children, in accordance with international law, including international humanitarian law**"[60]; and, to "**monitor and share informational regionally and internationally on the cross-border trafficking of children**".[61]

87. For more than a century the Hague Conference has been a pioneer in developing systems of international co-operation, at the administrative and judicial levels, to protect children in cross-frontier situations. As the UNCRC underlines, effective protection of children's rights across frontiers cannot be achieved without inter-State co-operation. The three modern Hague Children's Conventions[62] that have been developed over the last twenty-five years, as well as the Hague Convention currently under negotiation,[63] provide the *practical machinery* to enable States to work together where they have a shared responsibility to protect children.

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[56] A/RES.S-27/2, 11 October 2002, A World Fit for Children.
[57] Resolution 55/2.
[58] See point 44(12) of A/RES.S-27/2.
[59] See point 44(13) of A/RES.S-27/2.
[60] See point 44(17) of A/RES.S-27/2.
[61] See point 44(46) of A/RES.S-27/2.
[62] In particular the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (80 States Parties); the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (74 States Parties); the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* (15 States Parties and 20 Signatory States).
[63] The new *Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance*.

88. Several Articles of the UNCRC and the African Charter may be practically complemented by the Hague Children's Conventions (the 1980 Child Abduction Convention,[64] the 1993 Intercountry Adoption Convention,[65] the 1996 Child Protection Convention[66] and the new Maintenance Convention[67]). The Hague Children's Conventions set out mechanisms, practical procedures and infrastructures for dealing with the cross-border protection of children and implementing some of the more broadly expressed principles contained in the CRC and the Charter.

II. PURPOSE OF THE PROJECT

89. A Judicial Seminar, held in The Hague in September 2006 which involved principally Judges from Southern and Eastern Africa and was supported by the African Union and the UN Committee on the Rights of the Child, focused discussions on identifying ways to lend support to existing efforts to improve the cross-border protection of children in the Southern and Eastern African Region. The Seminar also examined cross-border legal, administrative and judicial co-operation on child protection issues which are particularly relevant to the region (including the trafficking, exploitation, abduction and sale of children, as well as custody, access and child support) some of which have been exacerbated by the HIV / AIDS pandemic. It considered ways in which The Hague approach could lend support to the practical implementation of principles set out in the UNCRC and the African Charter, either through existing Hague Conventions, application of Hague techniques, or adaptation of Hague techniques to particular countries in the region.

90. The Hague approach focuses on the protection of the child in the civil rather than the criminal realm. The Hague 'techniques' include the establishment of systems of co-operation between authorities in the different countries at administrative and judicial levels, the development of agreed approaches to judicial competence to take protective measures in respect of children, as well as to applicable laws, systems for the mutual recognition and enforcement of such measures, and post-Convention services (establishing Central Authority and judicial networks, judicial seminars, implementation assistance).

91. **The next stage of the Hague Project involves the convening of a major regional conference in South Africa in co-operation with The Presidency of the Republic of South Africa in the summer of 2008.** The 2008 Conference will build on the 2006 Conclusions and Recommendations which agreed a set of proposals suggesting for States in sub-Saharan Africa how the Hague Children's Conventions may be of help in protecting children in cross-frontier contexts, and how they may be implemented in a

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[64] While pre-dating the CRC, the 1980 Hague Child Abduction Convention in part implements CRC Articles 11 and 35; it helps to give effect to the fundamental rights of the child, such as those expressed in CRC Articles 9.3 and 10.2, and has been found in a number of court decisions in different parts of the world to be consistent with national Constitutions, as well as regional and international human rights instruments. Article 29 of the African Charter addresses the sale, trafficking and abduction of children; Charter Article 19 corresponds to CRC Article 9. The UN Committee on the Rights of the Child recommends CRC States to become Party to the 1980 Hague Convention as a means by which CRC Article 11 may be practically implemented.

[65] The 1993 Convention, inspired by CRC Article 21, is supported by the UN Committee on the Rights of the Child. Article 24 of the African Charter addresses adoption of children.

[66] The 1996 Convention reflects the "best interests of the child" principle set out in CRC Article 3; it also offers States a practical means of fulfilling, at least in part, the obligations of co-operation which arise under various Articles of the CRC, such as Articles 21(e), 22, 34 and 35. The African Charter sets out the rights, Article 19, and the protections to be afforded, Article 25, to children who are separated from their parents, guardians or family environments.

[67] Article 27.4 of the CRC encourages States to join Conventions that facilitate the international collection of child support. Article 18 of the African Charter addresses maintenance under the rubric of the protection of the family.

way which respects local conditions and cultures, and taking into account issues of capacity and especially the problem of access to legal services and procedure. The 2006 Seminar made recommendations for two areas in which the Hague model would be useful for African countries in the practical implementation of the UNCRC and the African Charter: **(I) the development of Central Authority structures (to play a key role in inter-governmental co-operation for the protection of children in cross-border situations, including cases of trafficking)**; as well as **(II) the development of Judicial Networks, supported by a legal infrastructure which includes the Hague Children's Conventions addressing international child abduction, inter-country adoption, and parental responsibility and measures for the protection of children.**

92. It is envisaged that the participants at the **2008 Conference** will include **government and policy makers, the judiciary and relevant regional organisations**. It is hoped that longer-term progress will be made in establishing a **permanent framework for inter-State co-operation, to establish State responsibility for implementation of international standards, and to ensure long-term functionality and cross-border responsibility in the regional protection of children.** The 2008 Conference will also address progress made in respect of the **Hague Intercountry Adoption Technical Assistance Programme** in so far as it has been implemented in African States.[68]

III. ASSISTANCE

93. This phase of the Project holds the potential to implement several of the Resolutions set out by the United Nations General Assembly to address issues emerging from the United **Nations Millennium Declaration** on a regional basis, as well as help to practically implement many of the obligations set out in the UNCRC and the African Charter. It is envisaged that representatives and experts from the Member States of the Southern African Development Community (SADC): **Angola, Botswana, Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia,** and **Zimbabwe**; the Member States of the East African Community (EAC)[69]: **Burundi, Kenya, Rwanda, Uganda**; and Horn of Africa States: **Djibouti, Eritrea, Ethiopia,** and **Somalia**, will attend the 2008 initiative, in addition to representatives from **the African Union, the SADC Tribunal, the UN Committee on the Rights of the Child** and **UNICEF.**

94. **The anticipated costs for the 2008 initiative are estimated at 162,800 Euros, *infra* Section IV.**

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[68] See Project 1, the Hague Intercountry Adoption Technical Assistance Programme. The pilot programme has provided assistance directly to the Government of Kenya. The Committee on the Rights of the Child included in its recent Concluding Observations that Kenya "seek technical assistance from the Hague Conference on Private International Law" in respect of intercountry adoption (see Article 41(d) of the Concluding Observations, CRC/C/KEN/CO/2, 2 February 2007, available at <http://www.ohchr.org/english/bodies/crc/docs/co/CRC_C_KEN_CO_2.pdf>). Initial discussions in respect of providing technical assistance have been held with authorities in Malawi; specific requests for assistance have been received from authorities in Mozambique and South Africa; further difficulties have been identified in Ethiopia and Lesotho.

[69] Tanzania is both a SADC and an EAC Member State.

IV. PROJECTED BUDGET FOR THE NEXT STAGE OF PART ONE

	REGIONAL INITIATIVE: HAGUE PROJECT FOR AFRICA: PART ONE	EUROS
	FY JULY 2007- JUNE 2008	
1.	Regional Seminar on the International Co-operation and the Protection of Children in the Southern and Eastern African Region, in co-operation with the Presidency of the Republic of South Africa (3-6 June 2008)	
	a. Assistance with travel expenses for 75 participants (3+ experts from 23 States)[70]	75,000
	b. Assistance with travel expenses for 15 international experts and Permanent Bureau[71]	15,000
	c. Assistance with accommodation expenses for 4 nights	46,800
	d. Assistance with meals (4 lunches / dinners)	12,000
	e. Closing dinner	6,000
	f. Administrative and other logistical costs (including on-site administrative assistance)	8,000
	Sub-total	**162,800**

[70] Angola, Botswana, Burundi, Democratic Republic of Congo, Djibouti, Eritrea, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Rwanda, Somalia, South Africa, Swaziland, Tanzania, Uganda, Zambia, and Zimbabwe.

[71] Including representatives from the African Union, the UN Committee on the Rights of the Child, and the Southern African Development Community Tribunal.

PART TWO: THE HAGUE PROJECT FOR THE FRENCH-SPEAKING AFRICAN REGION

I. BACKGROUND

95. Personal and family or commercial situations which are connected with more than one country are commonplace in the modern world. These may be affected by differences between the legal systems in those countries. With a view to resolving these differences, States have adopted private international law rules. The statutory mission of the Hague Conference is to work for the 'progressive unification' of these rules. This involves finding internationally-agreed approaches to issues such as jurisdiction of the courts, applicable law, and the recognition and enforcement of judgments in a wide range of areas, from commercial law and banking law to international civil procedure and from child protection to matters of marriage and personal status. It may be said that "a sound private international law regime is an indispensable part of the legal infrastructure to any legal system that interacts with other legal systems. A neglected and underdeveloped private international law regime will not be able to meet the challenges thrown by such interactions, and indeed, may be evidence of the absence of interaction. In an increasingly globalising world, this is not a fate any legal system should contemplate."[72]

96. The Hague Conventions in the field of cross-border legal co-operation constitute an international pillar of administrative and judicial co-operation and continue to attract new States Parties.[73] The Hague Conventions in the field of cross-border protection of children are particularly relevant within Africa where the risks for children arising from trafficking and exploitation, abductions, migration, issues of child support, as well as problems arising from the HIV / AIDS pandemic suggest the need for closer inter-State co-operation at administrative and judicial levels.

II. PURPOSE OF THE PROJECT

97. A Judicial Seminar for French-speaking Africa, convened at the Permanent Bureau in August 2007, was designed to promote a dialogue between Judges and experts from the French-speaking African Region.[74] The objective of the Seminar was to promote the Hague Conventions and the work of the Hague Conference as instruments of solutions to complex cross-border issues and to start a dialogue between Judges and experts in the region and the Hague Conference, so that the Conventions can be better adapted to the region. The Seminar agreed Conclusions and Recommendations similar to the 2006

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[72] See Richard Oppong, 'The Development of Private International Law in Africa: A Plea for Cooperation', *Yearbook of Private International Law*, Volume 8 (2006), at 189.

[73] The *Hague Convention of 15 November 1965 on the Service Abroad of Extrajudicial Documents in Civil or Commercial Matters* (56 States Parties); the *Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters* (44 States Parties); the *Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* (92 States Parties); and the *Hague Convention of 25 October 1980 on International Access to Justice* (23 States Parties).

[74] Chief Justices and Judges of the Superior Courts of Benin, Burkina Faso, Cameroon, Central African Republic, Congo, Chad, Côte d'Ivoire, Egypt, Gabon, Guinea, Guinea-Bissau, Madagascar, Mali, Morocco, Mauritius, Mauritania, Niger, Rwanda, Senegal, Togo, Tunisia and experts from the *Association Africaine des Hautes Juridictions Francophones (AAHJF)*, the *Association Africaine des Hautes Juridictions Francophones (AA-HJF)* and the *Association des hautes juridictions de cassation des pays ayant en partage l'usage du français (AHJUCAF)*, and experts from the United Nations Committee on the Rights of the Child, the *Organisation internationale de la Francophonie (OIF), the Organisation pour l'harmonisation en Afrique du droit des affaires (OHADA)*, the African Committee of Experts on the Rights and Welfare of the Child of the African Union (ACERWCAU) and the International Union of Judicial Officers *(UIHJ)* as well as Judges from Belgium and France and Liaison Judges from Canada and the Netherlands participated at the Seminar.

Seminar in respect of international child protection, and expanded its scope by addressing the benefits of the Hague Judicial and Administrative Co-operation Conventions for the region. Participants at the 2007 Seminar expressed a strong request for a follow-up Seminar to be held in an African State in two years' time.

98. Several of the States involved in these initiatives are also involved in the 'Malta process' involving certain Hague Convention States and Non-Hague States from within the Islamic Tradition[75] which is continuing to identify and elaborate the building blocks for the development of a legal structure which will provide a firm basis for judicial co-operation and which will provide parents with a secure international framework within which to resolve their differences.[76]

III. ASSISTANCE

99. The next phase of the Project also holds the potential to practically implement several of the Resolutions set out by the United Nations General Assembly to address issues emerging from the United Nations Millennium Declaration on a regional basis, as well as to give greater security to cross-border activities through access to an effective, world-wide and affordable framework of judicial and administrative co-operation. It is envisaged that representatives and experts from **Algeria, Benin, Burkina Faso, Burundi, Cameroon, Central African Republic, Congo, Chad, Côte d'Ivoire, Democratic Republic of Congo, Egypt, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Madagascar, Mali, Mauritania, Mauritius, Morocco, Niger, Rwanda, Senegal, Togo and Tunisia**, will attend the 2009 initiative.

100. **The anticipated costs for the 2009 initiative are estimated at 162,800 Euros, *infra* Section IV.**

101. At this stage in the timeline, in order to implement many of the Conclusions from the 2008 Regional Conference on the International Co-operation and the Protection of Children in the Southern and Eastern African Region, in addition to laying the groundwork for the 2009 Seminar for the French-speaking African Region, it is proposed that a **Special Adviser for Africa** be secured for two days per week. This Adviser will work to raise awareness of the Hague Conference and Conventions in the region, as well as to identify specific needs and help to implement many of the Conclusions agreed at the regional conferences. It is anticipated that this part-time position, based in the region and in co-operation with a regional organisation, would need funding of approximately 20,000 Euros (consultancy fees, communication costs, co-ordination meetings). It is anticipated that this position will grow gradually with the programme, to be integrated fully into the work of the Permanent Bureau.

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[75] Algeria, Djibouti, Egypt, Mauritania, Morocco, Somalia and Tunisia.

[76] See Project 3, Cross-Frontier Child Protection and Family Law Issues involving Certain Hague Convention States and Certain Non-Hague States from within the Islamic Tradition ('The Malta Process').

IV. PROJECTED BUDGET FOR THE NEXT STAGE OF PART TWO

	THE HAGUE PROJECT FOR AFRICA	EUROS
	FY JULY 2008- JUNE 2009	
1.	Special Adviser for Africa (2 days a week): work to raise awareness of the Hague Conference and Conventions in the region, as well as to identify specific needs and help to implement many of the Conclusions agreed at the regional meeting. Consultancy fees, communication costs, two co-ordination meetings in The Hague	20,000
	REGIONAL INITIATIVE: PART TWO	
2.	Seminar on the Hague Project for the French-speaking African Region (Spring 2009)	
	a. Assistance with travel expenses for 75 participants (3 experts from 25 States[77])	75,000
	b. Assistance with travel expenses for 15 experts and Permanent Bureau	15,000
	c. Assistance with accommodation expenses for 4 nights	46,800
	d. Assistance with meals (4 lunches / dinners)	12,000
	e. Closing dinner	6,000
	f. Administrative and other logistical costs (including on-site administrative assistance)	8,000
	Sub-total	**162,800**
	TOTAL PART TWO	**182,800**

PART THREE: THE HAGUE PROJECT FOR AFRICA

102. It is envisaged that part three of the Hague Project for Africa will see the bringing together of both initiatives in a continent-wide forum, in co-operation with the African Union, in order to discuss regional implementation of agreed Recommendations under a structured framework. Longer-term progress may take the form of the development of Central Authorities to effectively implement international standards and frameworks provided by the Hague Conventions into national structures. It could also take the form of established Central Authorities 'twinning' with developing national Central Authorities until the infrastructures of neighbouring States reach the level at which they could operate independently.

[77] Algeria, Benin, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Congo, Côte d'Ivoire, Democratic Republic of Congo, Egypt, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Madagascar, Mali, Mauritania, Mauritius, Morocco, Niger, Rwanda, Senegal, Togo and Tunisia.

PROJECT 6
THE ASIA-PACIFIC REGIONAL INITIATIVE

I. BACKGROUND

103. In June 2007 Judges, Government officials and other experts from the Asia-Pacific region[78] met in Sydney, Australia, to discuss the operation and implementation within the Asia-Pacific Region of the Hague Conventions in the areas of child protection and legal co-operation.[79] The initiative was jointly organised by the Hague Conference and the Australian Attorney-General's Department and generously funded by the Government of Australia. For those States which were not Party to some or any of the Hague Conventions under discussion, the initiative presented an unique opportunity to illustrate cross-border situations which may be resolved by the Hague Conventions and to demonstrate advantages of becoming Party to the Conventions.

104. The Regional Meeting progressed the work begun in 2005 at the successful Malaysian Seminar[80] and also examined some of the issues discussed at the Malta I and II conferences.[81] In particular, it was concluded in Australia that the States would continue working to further international co-operation among States in the Region in the areas of child protection and legal co-operation, principally through the vehicles of the Hague Conventions. Progressive co-operation in the Region with the assistance of the Hague Conference and regional organisations was stressed, as was the importance of training to secure the effective implementation and operation of international instruments such as the Conventions, in co-operation with the relevant international and regional bodies, including the International Developmental Legal Organisation and ASEAN.[82]

105. It is anticipated that a follow-up the 2007 initiative will be convened in 2009 in a Country in the region.

II. PURPOSE OF THE PROJECT / ASSISTANCE

106. In order to implement many of the Conclusions from the 2007 regional initiative, in addition to laying the groundwork for a 2009 follow-up, it is proposed that a **Special Adviser for the Asia-Pacific region** be secured for one day per week during this Financial Year (July 2007-June 2008), with an increase to three days per week during the following Financial Year (July 2008-June 2009). This Adviser will work to **raise**

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[78] Australia, Bangladesh, Brunei Darussalam, Cambodia, China, Cook Islands, India, Indonesia, Japan, Republic of Korea, Laos, Malaysia, Myanmar, New Zealand, Pakistan, Papua New Guinea, Philippines, Samoa, Singapore, Sri Lanka, Thailand, Tonga and Viet Nam, and academics, interested individuals, representatives from non-governmental organisations and members of the Permanent Bureau of the Hague Conference on Private International Law.

[79] The Conventions discussed included those on child abduction, intercountry adoption, protection of children and international child support, the service of process, the taking of evidence, and the abolition of legalisation for foreign public documents (Apostille) and choice of court agreements.

[80] "An introduction to the Hague Conventions: Seminar on Fostering the Rule of Law in Cross-Border / Transnational Civil and Commercial Relations in the Asia-Pacific", held from 22 to 24 August 2005 in Kota Kinabalu, Sabah, Malaysia. The 2005 international seminar was organised by the Attorney General's Chambers of Malaysia in collaboration with the Malaysian Ministry of Women, Family and Community Development. The Seminar was designed to promote international judicial and administrative co-operation among the countries in the Asia Pacific region and to provide a better understanding of the implementation of various Hague Conventions in the context of the different legal systems in the Asia Pacific, including the Shariah system.

[81] See Project 3, Cross-Frontier Child Protection and Family Law Issues involving Certain Hague Convention States and Certain Non-Hague States from within the Islamic Tradition ('The Malta Process').

[82] The Conclusions and Recommendations are available on the website of the Hague Conference at < www.hcch.net > –> "Child Abduction Section" –> "Judicial Seminars on the International Protection of Children".

awareness of the Hague Conference and Conventions in the region, as well as to **identify specific needs and help to implement many of the Conclusions agreed** at the regional conference. As the next stage of the regional initiative develops, it will be necessary for **on-the-ground assistance** to prepare for the 2009 event, including through **diagnostic visits**. It is anticipated that this part-time position, based in the region and in co-operation with a regional organisation, would need funding of approximately 10,000 Euros (consultancy fees, communication costs, co-ordination meetings) during the current Financial Year and approximately 28,000 Euros during the next Financial Year. It is anticipated that this position will grow gradually with the programme, to be integrated fully into the work of the Permanent Bureau.

107. The next phase of this Project holds the potential to practically implement several of the Resolutions set out by the United Nations General Assembly to address issues emerging from the **United Nations Millennium Declaration on a regional basis**, as well as to give greater security to cross-border activities through access to an effective, world-wide and affordable framework of judicial and administrative co-operation.

108. **The anticipated costs for the initiative are estimated at 230,200 Euros, *infra* Section III.**

III. PROJECTED BUDGET FOR THE NEXT PHASES OF THE PROJECT

	REGIONAL INITIATIVE: ASIA-PACIFIC	EUROS
	FY JULY 2007- JUNE 2008	
1.	Special Adviser for the Asia Pacific Region: 1 day per week: work to raise awareness of the Hague Conference and Conventions in the region, as well as to identify specific needs and help to implement many of the Conclusions agreed at the Asia-Pacific meeting. Consultancy fees, communication costs, two co-ordination meetings in The Hague	10,000
	FY JULY 2008- JUNE 2009	
1.	Special Adviser for the Asia Pacific Region	
	a. 3 days per week: continued work to identify needs in the region. Consultancy fees, communication costs, two co-ordination meetings in the Hague	28,000
	b. Diagnostic visits to certain States	
	i. Costs associated with assessment / training: Travel / other costs for international assistance (4 States)[83]	35,200
	ii. Costs associated with compensation for in-country expert assistance and expert consultancy fees[84]	24,000
	Sub-total	87,200
2.	Phase II: Seminar for the Asia-Pacific Region (tbd 2009)	
	a. Assistance with travel expenses for 60 participants (3 experts from 20 States)[85]	60,000
	b. Assistance with travel expenses for 15 international experts and Permanent Bureau[86]	15,000
	c. Assistance with accommodation expenses for 4 nights	32,000
	d. Assistance with meals (4 lunches / dinners)	12,000
	e. Closing dinner	6,000
	f. Administrative and other logistical costs (including on-site administrative assistance)	8,000
	Sub-total	133,000
	FY JULY 2009- JUNE 2010	
1.	Special Adviser (full time) and implementation assistance to certain States / regional liaison officer	*[87]
	TOTAL	**230,200**

[83] Travel cost for the Adviser to undertake two diagnostic visits to each country (maximum 4 countries) (approximately 4,400 Euros per mission) (approximately 1,000 travel costs; 1,000 hotel costs 10 days; 1,000 *per diem* 10 days; 1,400 compensation 10 days).

[84] Estimate 3,000 per expert for a 10-day mission. Necessary in-country travel costs, necessary hotel costs and per day compensation.

[85] States that may be invited to benefit from funding include, *inter alia*, Bangladesh, Brunei Darussalam, Cambodia, China, Cook Islands, India, Indonesia, Republic of Korea, Laos, Malaysia, Myanmar, Pakistan, Papua New Guinea, Philippines, Samoa, Singapore, Sri Lanka, Thailand, Tonga and Viet Nam.

[86] Including representatives from the African Union, the UN Committee on the Rights of the Child, and the Southern African Development Community Tribunal.

[87] Costs to be determined following development of the 2009 Seminar.

PROJECT 7

THE HAGUE PROGRAMME FOR THE COMMONWEALTH OF INDEPENDENT STATES

I. BACKGROUND

109. The Hague Service,[88] Evidence[89] and Apostille[90] Conventions constitute a pillar of international judicial and administrative co-operation. Despite their age, these instruments remain very modern in their basic approach and continue to attract new States Parties. Since January 2000, 16 new States have adopted the Hague Service Convention (total 56); the number of States Parties to the Hague Evidence Convention has increased to 44 States Parties; and the Hague Apostille Convention has now 92 States Parties, which makes it the most widely ratified of all Hague Conventions. Government authorities, courts, organisations, lawyers, notaries, researchers and individuals increasingly consult the Secretariat of the Hague Conference, the Permanent Bureau, not only concerning the implementation, operation and interpretation of these and other Conventions, but also with a view to preparing for their ratification or accession.

110. The Hague Programme for the Commonwealth of Independent States has been designed to provide assistance in respect of the implementation and operation of the Judicial and Administrative Co-operation Conventions to States Parties from the Commonwealth of Independent States (CIS).[91] The Programme has three phases.

111. Phase One began in 2005 with a focus on assisting the Russian Federation with the implementation and practical operation of the Service Convention.[92] In co-operation with the Governments of Canada and Finland the Permanent Bureau jointly organised a seminar on the Hague Service Convention in Moscow in October 2005, with a follow-up seminar in January / February 2007 in Saint Petersburg. These two initiatives were designed to train Russian officials with responsibility to implement the Hague Service Convention (Central Authority, staff of the Ministry of Justice in the Regions and some Judges). Both initiatives were co-funded by the Governments of Canada and Finland.[93] The third seminar in the series, to be convened in Yekaterinburg in May 2008, intends to build on the foundation established by the first two initiatives through a more in-depth examination of the Service Convention with an expanded audience which will likely include academia and possibly practitioners. An introduction to the Evidence Convention is also contemplated.[94] Commitments from the Governments of Canada and Finland, with assistance from the Russian Federation,[95] have been made to co-fund the Yekaterinburg initiative.

112. A second initiative under Phase One of the CIS Programme is currently underway. It is designed to provide assistance to the Government of Ukraine with the implementation and practical operation of the Service and the Evidence Conventions.[96] An intensive technical assistance mission has been designed in co-operation with the

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[88] *Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters*.

[89] *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters*.

[90] *Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents*.

[91] The Commonwealth of Independent States (CIS) is an international alliance consisting of eleven former Soviet Republics: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Ukraine and Uzbekistan. Turkmenistan discontinued permanent membership as of 26 August 2005 and is now an associate member.

[92] The Service Convention entered into force for the Russian Federation on 1 May 2001 but only became operational a few years later.

[93] The assistance has also included the preparation and publication of a Russian translation of the *Practical Handbook on the Operation of the Hague Service Convention* (published by the Permanent Bureau in 2006).

[94] The Evidence Convention entered into force for the Russian Federation on 30 June 2001.

[95] Assistance from the Ministry of Justice of the Russian Federation, the Supreme Arbitration Court and Ural University in Yekaterinburg.

[96] The Service and Evidence Conventions entered into force for Ukraine on 1 December 2001 and on 1 April 2001 respectively.

Ukrainian-European Policy and Legal Advice Centre. Following a detailed fact-finding mission to analyze the needs of those charged with implementing the Hague Conventions in Ukraine (November 2007) and the development of targeted materials, a practical training course will be convened for approximately 40 officers of the Ukrainian Government in respect of the practical implementation of the Conventions (December 2007).

113. Phases Two and Three of the CIS Programme will build on Phase One and are designed to further promote and strengthen the operation of the Hague Judicial Co-operation Conventions, and possibly other Hague Conventions of interest to the region (see *infra* Section III for more details).

II. PURPOSE OF THE PROGRAMME

114. **As the circle of States Parties to the Conventions expands, more and more of the newly interested States come without the necessary infrastructure and / or know-how gained through involvement in the negotiation process and operation of the Conventions over the years. Capacity building is needed to help such States absorb, implement and correctly apply these instruments.** Many of the Hague Conventions depend for their success on the development of close co-operation between States Parties, as well as on the building of mutual confidence and trust between judiciaries and administrative bodies in the different countries. **Nothing contributes more to the growth of this co-operation and trust than a firm understanding that Convention obligations will be promptly and efficiently discharged by States Parties.** It is for this reason too that the Member States of the Hague Conference have accepted that it is in their interests for Convention supports to be provided also to non-Member States which are Parties to the Hague Conventions.

III. ASSISTANCE

115. Phase Two of the CIS Programme (July 2008-June 2009) will build on the foundation established from the initial groundwork with the Russian Federation (I-III) and with Ukraine (I). Phase Two anticipates **a follow-up initiative for Ukraine as well as an initial mission for Belarus** based on the Ukrainian model.

116. Phase Three of the CIS Programme (July 2009-June 2010) intends to build upon the foundation of expertise established from Russia I-III, Ukraine I-II and Belarus I, as well as to lay a solid foundation for effective and broad implementation of the Conventions in the region and the development of a regional network of experts. Phase Three anticipates the convening of a **regional initiative** to discuss the Service and Evidence Conventions[97] (tentative 2010). In light of its enormous practical importance, discussion of the Apostille Convention should also be contemplated, in particular with a view to encouraging a more uniform operation of the Convention in the region.[98] The 2010 initiative should include representatives and experts from **Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Ukraine and Uzbekistan**. At some point in the future it may also be contemplated to address the Hague Children's Conventions for the CIS.[99]

117. **The anticipated costs for the CIS Programme 2007-2010 are estimated at 219,100 Euros, *infra* Section IV.**

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[97] Belarus, the Russia Federation and Ukraine are Party to the Service Convention and the Evidence Convention.

[98] Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova, Russia and Ukraine are Party to the Apostille Convention.

[99] Belarus, Georgia, Moldova, Ukraine, Uzbekistan and Turkmenistan are Party to the 1980 Child Abduction Convention; Azerbaijan, Belarus, Georgia, Moldova are Party to the 1993 Intercountry Adoption Convention; Ukraine is Party to the 1996 Child Protection Convention.

IV. PROJECTED BUDGET FOR THE NEXT PHASES OF THE PROGRAMME

	THE HAGUE PROGRAMME FOR THE CIS	EUROS
	PHASE ONE: FY JULY 2007- JUNE 2008	
1.	Third seminar for the Russian Federation (May 2008)[100]	Commitments made to co-fund by the Governments of Canada and Finland,[101] with assistance from the Government of the Russian Federation
2.	Mission and seminar for Ukraine (November / December 2007)[102]	Funded by the Ukrainian-European Policy and Legal Advice Centre
	PHASE TWO: FY JULY 2008- JUNE 2009	
1.	Mission and seminar for Belarus[103]	
	a. Initial fact-finding mission (5 days) (Autumn 2008)	
	i. International travel for 2 experts	2,000
	ii. *Per diem* for 2 experts	1,800
	iii. Consultancy fees for 2 experts[104]	11,000
	iv. Internal travel	In-kind contribution from Host State
	v. Interpretation	In-kind contribution from Host State
	Sub-total	14,800
	b. Seminar for officials in Belarus (3 days) (Spring 2009)	
	i. Domestic travel and accommodation for approximately 40 participants from Belarus charged with implementing the Conventions	15,000

[100] The Russian Federation is Party to the Service, Evidence and Apostille Conventions.
[101] The Governments of Canada and Finland co-funded the first 2 initiatives for the Russian Federation in addition to the costs associated with the translation and publication of the Practical Handbook on the Service Convention into Russian.
[102] Ukraine is Party to the Service, Evidence and Apostille Conventions.
[103] Belarus is Party to the Service, Evidence and Apostille Conventions.
[104] Including 5 days preparatory/follow-up and 5 days for the actual mission for each expert.

	ii. International travel and accommodation for 2 experts and 2 Members of the Permanent Bureau	6,000
	iii. Consultancy fees for 2 experts[105]	6,600
	iv. Travel and accommodation for experts from other Contracting States	In-kind contribution from Member States
	v. Interpretation, translations and miscellaneous	5,000
	vi. In country assistance, meals and miscellaneous	In-kind contribution from Host State
	Sub-total	32,600
2.	Ukraine Follow-Up	
	a. Second seminar for officials in Ukraine (3 days) (Spring 2009)	
	i. Domestic travel and accommodation for approximately 40 participants from Ukraine charged with implementing the Conventions	15,000
	ii. International travel and accommodation for 2 experts and 2 Members of the Permanent Bureau	6,000
	iii. Consultancy fees for 2 experts[106]	6,600
	iv. Travel and accommodation for experts from other Contracting States	In-kind contribution from Member States
	v. Interpretation, translations and miscellaneous	5,000
	vi. In country assistance, meals and miscellaneous	In-kind contribution from Host State
	Sub-total	32,600

[105] Including 3 days preparatory/follow-up and 3 days for the actual seminar for each expert.
[106] Including 3 days preparatory/follow-up and 3 days for the actual seminar for each expert.

PHASE THREE: FY JULY 2009- JUNE 2010

1.	Seminar on the Hague Service and Evidence Conventions for the CIS (tentative 2010)	
	a. Assistance with travel expenses for 30 participants (10 experts from 3 States)[107] (Host State to be determined)	21,000
	b. Assistance with travel expenses for 15 participants (3 experts from 5 States)[108]	10,500
	c. Assistance with travel expenses for 4 observers (1 expert from 4 States)[109]	2,800
	d. Assistance with travel expenses for 5 international experts and 3 Members of the Permanent Bureau	8,000
	e. Participation of experts from other Contracting States (travel and accommodations)	In-kind contribution from HCCH Member States
	f. Assistance with accommodation expenses for 4 nights (approx 60 people)	28,800
	g. Assistance with meals (3 lunches / dinners)	10,000
	h. Translation, interpretation and equipment rental for 3 days	10,000
	i. Translation and production of documents	35,000
	j. Administrative and other logistical costs, miscellaneous	5,000
	k. Closing dinner (approx 80 people)	8,000
	l. Opening reception	In-kind contribution from the Host State
	m. Facilities	In-kind contribution from the Host State
	n. On-site administrative assistance	In-kind contribution from the Host State
	Sub-total	139,100
	TOTAL CIS PROGRAMME 2007-2010	**219,100**

[107] As of 20 October 2007 Belarus, Russia and Ukraine are Party to the Service, Evidence and Apostille Conventions.
[108] In addition representatives from other States Parties to the Apostille Convention will be invited to attend: Armenia, Azerbaijan, Georgia, Kazakhstan, Moldova.
[109] Experts from Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan may also be invited to observe.

PART II

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PARTIE II

I. POST-CONVENTION WORK OF THE PERMANENT BUREAU

118. The Hague Conference on Private International Law [the 'Hague Conference', 'Conference' or 'HCCH'] has in recent years experienced an unprecedented period of growth, both in its membership and in the number of Contracting States to the Conventions. In addition to the 68 Members,[110] 60 non-Member States are now, as Parties to one or more Hague Conventions, part of the Hague Conventions' network. This profound transformation of the Hague Conference into a global organisation has brought with it the need for new initiatives in respect of the provision of 'post-Convention' support services.

119. Meetings on General Affairs and Policy of the Conference have consistently expressed support for initiatives undertaken by the Permanent Bureau to promote and provide technical assistance, including the new activities in the field of education and training in support of the Judicial and Administrative Co-operation Conventions and the regional development initiatives (in 2000, 2002,[111] 2003,[112] 2004,[113] 2005,[114] 2006[115] and 2007[116]).

120. These activities form part of a wide range of post-Convention work co-ordinated by the Permanent Bureau (the Secretariat of the Hague Conference) and designed to support the effective and widespread implementation of Hague Conventions, particularly those which establish systems of judicial and / or administrative co-operation (*e.g.* those dealing with international protection of children and families and international legal co-operation). This post-Convention work ranges from treaty administration to the provision of technical assistance, and from monitoring and review to work to promote and develop the full potential of the Conventions in different regions of the world. Many, but not all, of the activities are now funded (in part due to the budgetary adjustments which came into effect in Financial Year L) from the Regular Budget. However, this does not as general rule apply to judicial studies, training and assistance activities, and regional initiatives.

121. The post-Convention work of the HCCH, which is now one of its recognised hallmarks, has been supported by Member States for good reasons. Three, in particular, may be recalled:

(1) Hague Conventions (particularly those involving judicial and administrative co-operation) are practical working instruments which, for their effective operation, require careful implementation at the national level. In the absence of an international body to provide authoritative interpretations of, or to enforce obligations under, the Hague Conventions, continuing efforts are needed to ensure their consistent interpretation and efficient functioning within the States Parties.

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[110] 68 Members to date including the European Community, Since early 2001, the HCCH has seen its membership grow by more than 45%, as well as Membership of the European Community. The total population of the new Member States well exceeds 500 million people. In addition, four States have been admitted as Members (Costa Rica, Zambia, Colombia and India) and are still to accept the Statute.

[111] Note on the current status of work relating to the monitoring of the Hague Conventions on Judicial and Administrative Co-operation, Prel. Doc. No 25 of April 2002 for the attention of Commission I (General Affairs and Policy of the Conference) of the Nineteenth Session – April 2002.

[112] See "Strategic Plan Update", Prel. Doc. No 3 of March 2003 for the attention of the Special Commission of April 2003 on General Affairs and Policy of the Conference.

[113] See "Strategic Plan Update", Prel. Doc. No 14 of February 2004 for the attention of the Special Commission of April 2004 on General Affairs and Policy of the Conference.

[114] Prel. Doc. No 26 of March 2005, The Hague Children's Conventions: Some Regional Developments, for the attention of the Special Commission of March / April 2005 on General Affairs and Policy of the Conference.

[115] Prel. Doc. No 6 of March 2006, Post-Convention Work, Regional Developments and the Need for a Systematic Programme of Training, for the attention of the Special Commission of April 2006 on General Affairs and Policy of the Conference.

[116] Prel. Doc. No 14 of March 2007, Regional Developments, for the attention of the Council of April 2007 on General Affairs and Policy of the Conference.

(2) As the circle of HCCH Member States and non-Member parties to Conventions expands, more and more of the newly interested States come without the necessary infrastructure and / or know-how gained through involvement in the negotiation process. Capacity building may be needed to help such States absorb, implement and correctly apply these instruments. (This is not to say that the 'established' Hague States do not also sometimes require such support.)

(3) Many of the Hague Conventions depend for their success on the development of close co-operation between States Parties, as well as on the building of mutual confidence and trust between judiciaries and administrative bodies in the different countries. Nothing contributes more to the growth of this co-operation and trust than a firm understanding that Convention obligations will be promptly and efficiently discharged by States Parties. It is for this reason too that the Member States of the HCCH have accepted that it is in their interests for Convention supports to be provided also to non-Member States which are Parties to the Hague Conventions.

122. The Permanent Bureau has been involved in different types of training and conferencing – ranging from the straightforward national training programmes, to the organisation of regional and international seminars, which have broader developmental objectives. The Permanent Bureau's work in this area in particular is done in co-operation with many bodies - national, regional and international. There are the national training sessions to familiarise judges and other professionals and Central Authorities with the Conventions - to help them to understand not only the technical details but also the underlying objectives.[117] These are usually organised locally with the Permanent Bureau taking part in an advisory role.[118] The involvement of judges and other professionals from outside the country concerned is encouraged.

123. There are seminars or meetings which have as their objective the provision of assistance and advice concerning implementation of a Convention. Often these are seminars in which a member of the Permanent Bureau takes the lead role in the provision of this technical assistance. Some of the sessions concern the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption*, and in recent years the Permanent Bureau has given this form of assistance in Armenia, Belarus, Brazil, China, Colombia, Guatemala, Kenya, Romania, Ukraine, Vietnam and others. These missions can be quite intensive; in order to give good advice, it is necessary to spend some time studying local laws and conditions. The seminars usually involve a gathering of a range of professionals – legal, judicial, social work, immigration, etc.

124. There are also regional seminars / conferences whose objectives may vary: to provide information to countries where the Hague Conventions have not yet taken hold;[119] to help to improve the operation of the Conventions in particular regions – to

[117] Such programmes are important for new Contracting States but may also be helpful in "established" Hague States.

[118] Over the last 2 years the Permanent Bureau has been involved in seminars / training sessions of this kind in 12 Latin American States, Albania, Belarus, Bosnia & Herzegovina, Bulgaria, Croatia, Poland, Turkey, the United States of America and others.

[119] For example the Hague Project for the Francophone African Region, The Hague (August 2007); Asia-Pacific Regional Meeting on the work of the Hague Conference on Private International Law, Sydney (June 2007); Judicial Seminar on International Co-operation and the Protection of Children in the Southern and Eastern African Region, The Hague (September 2006); Judicial Conference on Cross-Frontier Family Law Issues involving certain Hague Convention States and certain non-Hague States from within the Islamic tradition (March 2006 and March 2004).

promote co-operation – to deal with regional issues – to promote judicial networking and communication.[120]

125. This represents a growing body of work in which the Conference make take some pride. It is work that is producing real improvements in the implementation and good functioning of the Hague Conventions in different parts of the world. It is also in its own way work which is contributing to good governance and the rule of law within the international community. Finally, and perhaps most importantly, it is work which benefits individual citizens by helping to establish a secure legal environment for work and family relationships in a globalising world.

II. BACKGROUND TO THE HAGUE CONFERENCE INTERNATIONAL CENTRE FOR JUDICIAL STUDIES AND TECHNICAL ASSISTANCE

126. The idea for a consolidation of services was first presented at the Special Commission of April 2003 on General Affairs and Policy of the Conference.[121] Since that time, steady developments have been undertaken to provide post-Convention services and to develop initiatives on a regional basis. Indeed the regional initiatives developed over the past five years now form a solid basis upon which to build.

127. A 2006 contribution from the Government of the Netherlands and a subsequent contribution from the Government of the United States of America have allowed for the initial establishment of the Hague Conference International Centre for Judicial Studies and Technical Assistance. This development strengthens the capacity of the Hague Conference in its continuing efforts to ensure the effective implementation of its Conventions through the provision of judicial studies, training and technical assistance. These efforts, which have enjoyed the full support of Member States, already constitute a distinctive feature of the work of the Hague Conference. The Centre will also support the regional activities aimed at widening the geographical reach of the Hague Conventions.

128. The Centre, which forms an integral part of the Permanent Bureau, will add to the value of the work already being undertaken by the Permanent Bureau by supporting fresh initiatives and enabling a more systematic approach to be taken to the provision of implementation assistance and training. The Centre focuses on providing administrative and logistical support to the Convention-specific, regional and other initiatives being undertaken and developed by the Permanent Bureau in consultation with its Member States, in particular in respect of the Hague Children's Conventions and the Hague Judicial and Administrative Co-operation Conventions.

129. By focusing on its specific mission, the Centre will be capable of increasing the supply of high quality services now provided for by the Secretariat, at a reduced cost, creating and producing new services and products in less time and reaching a wider audience in so doing. It will be possible to develop standardised programmes and materials for seminars on various Conventions, targeting specific audiences. Its focus on education, training and technical assistance in support of the Conference's global work will be complemented by a focus on securing funding specifically targeted towards

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[120] Examples are the two Latin American Judicial Seminars organised by the Permanent Bureau in Monterrey (Mexico) in December 2004 and in The Hague in December 2005. These two seminars illustrate well the problems of funding; the Permanent Bureau spent considerable time and energy in raising funds especially for the first seminar in Monterrey. Other examples include the series of bi-annual Anglo-German judicial conferences which involve a number of German and English speaking States. In the area of adoption, meetings of the European Central Authorities take place annually and the Permanent Bureau is usually invited to attend.

[121] See Prel. Doc. No. 6 of March 2003, Proposal for a Hague International Legal Training Institute, for the attention of the Special Commission of April 2003 on General Affairs and Policy of the Conference.

ensuring continuity for these initiatives. International audiences have already welcomed the Centre and recognised the potential role that the Centre may be able to assume in respect of the co-ordination of assistance.[122]

130. In particular the Centre:

a) deals with requests for assistance;

b) assists scheduling and carrying out the logistical work surrounding the training and seminar programmes of the Hague Conference;

c) helps establish an international panel of resource persons (already many international experts are involved in the programmes);

d) assists in the development of training materials (already there are extensive materials– including the Guides to Good Practice and practical handbooks);

e) drafts and implements funding proposals.

131. As a result of the 2006 financial contributions it has been possible to set aside funds to be contributed to the costs of a Special Programme Officer, administrative assistant, development of education and implementation materials, and towards a logistical base fund, until November 2007.

132. Specifically under the Centre it has been possible to work towards initiating Phase II of the programme to support the effective implementation of the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption*, including setting aside costs for a part-time co-ordinator, development and translation of implementation materials and funds for fact-finding and support missions, until December 2008.[123]

III. EXAMPLES OF KNOWN NEEDS AND REQUESTS FOR ASSISTANCE

133. The Permanent Bureau has been entrusted by the Member States of the Hague Conference, as well as by the Contracting States to the Hague Conventions, with the responsibility of monitoring and reviewing the operation of the Conventions in the different Contracting States and of providing States with assistance to help ensure their effective implementation and operation.

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[122] See the Resolution agreed at the Anglophone/Francophone Judicial Family Law Conference (Edinburgh, June 2007): "The judges and jurists here present agreed … (9) Judicial experience in applying international conventions should be used to assist new Contracting States. The potential role of the Hague Conference International Centre for Judicial Studies and Technical Assistance is recognised. The importance of sharing knowledge and experience through international judicial seminars is underlined." The recent Judicial Seminar for French-speaking Africa (The Hague, August 2007) also concluded that "(24) the necessary efforts should be made to raise the resources to enable technical assistance and training for that purpose in each State. The participants welcomed the efforts leading to the creation within the Permanent Bureau, with the aid of voluntary contributions, of the Hague Conference International Centre for Judicial Studies and Technical Assistance which can assist States which are considering becoming parties or which are parties to the Hague Conventions."

[123] In Phase II the Intercountry Adoption Implementation Assistance Programme is providing technical support and assistance directly to Guatemala and will soon be doing so to the Republic of Kenya. The Committee on the Rights of the Child included in its recent Concluding Observations that Kenya "seek technical assistance from the Hague Conference on Private International Law" in respect of intercountry adoption (see Article 41(d) of the Concluding Observations, CRC/C/KEN/CO/2, 2 February 2007, available at <http://www.ohchr.org/english/bodies/crc/docs/co/CRC_C_KEN_CO_2.pdf>). The Committee suggested that Guatemala "seek urgent technical assistance from the Hague Conference on Private International Law on the development of national legislation as well as its practical application" in respect of intercountry adoption (see Article 28 of the Concluding Observations, CRC/C/OPSC/GTM/CO/1, 8 June 2007 available at <http://www.ohchr.org/english/bodies/crc/crcs45.htm>.

134. The Permanent Bureau and the Centre focus on providing co-ordinated assistance under the Conventions. This co-ordination encompasses three major lines of action:

a) identifying weaknesses or needs in States / regions or where a Hague Convention is about to come into operation;

b) considering what the Hague Conference is able to offer itself and in co-operation with others (States Parties, Regional Bodies or NGOs) in the way of training and technical assistance; and

c) examining how to access any necessary funding.

135. In identifying weaknesses or needs in States, the Permanent Bureau may be alerted by Contracting States experiencing difficulties with other Contracting States or the Permanent Bureau may be contacted for assistance by the State itself. Following such a request a fact-finding mission may be undertaken by a Member of the Permanent Bureau, or by an expert requested to act on behalf of the Permanent Bureau, to identify the strengths and weaknesses of the State as well as to identify regional and national experts and organisations that may be able to assist in subsequent missions.

136. Ongoing specific programmes which will benefit from the administrative and logistical support of the International Centre include:

- Intercountry Adoption Implementation Assistance Programme;[124]

- International Child Abduction and Child Protection Assistance Programme;[125]

- Continuing Regional Initiatives.[126]

IV. WHAT HAS BEEN ACHIEVED BY WAY OF INITIATIVES AND PROGRAMMES

137. Over the past decade the Permanent Bureau has continued to develop its activities in the field of promotion, education and training in respect of Hague Conventions at the global, regional and national levels, in close consultation and co-operation with Hague Conference Member States and States Parties to Hague Conventions.[127] In recent years

[124] See The Intercountry Adoption Technical Assistance Programme, Project 1.
[125] See The Child Abduction and Child Protection Assistance Programme, Project 2.
[126] See Project 5 re Africa, see Project 3 re "the Malta Process", see Project 4 re Latin America, and see Project 6 re the Asia-Pacific.
[127] Hague Project for the Francophone African Region, The Hague (August 2007); Asia-Pacific Regional Meeting on the work of the Hague Conference on Private International Law, Sydney (June 2007); Judicial Seminar on International Co-operation and the Protection of Children in the Southern and Eastern African Region, The Hague (September 2006); Judicial Conference on Cross-Frontier Family Law Issues involving certain Hague Convention States and certain non-Hague States from within the Islamic tradition (March 2006); Latin American Judges' Seminar: The Hague Children's Conventions and Cross-Border Protection of Children within Latin America, The Hague, Netherlands (December 2005); Seminar in respect of the Hague Service Convention, Moscow (October 2005); Seminar on the Hague Securities Convention, Seoul (September 2005); Latin American Judges' Seminar on the 1980 Hague Convention on the Civil Aspects of International Child Abduction, Monterrey, Nuevo Leon, Mexico (December 2004); Judicial Conference on Cross-Frontier Family Law Issues involving certain Hague Convention States and certain non-Hague States from within the Islamic tradition (March 2004); Judges' Seminar on the 1980 Hague Convention on the Civil Aspects of International Child Abduction, Noordwijk (October 2003); Judicial Seminar on the International Protection of Children, De Ruwenberg (October 2001); Judicial Seminar on the International Protection of Children, De Ruwenberg (June 2000); Judicial Seminar on the International Protection of Children, De Ruwenberg (June 1998). Joint colloquia: Guaranteeing the Effective Recovery of Maintenance in Europe and in the World (January 2006); The First International Forum on e-Notarization and e-Apostilles (May 2005); Legal issues raised by electronic commerce (October 2004).

the Permanent Bureau has begun to focus efforts and initiatives at the regional levels, in particular in Latin America, in Africa, in the Asia-Pacific region and among States with legal systems based upon or influenced by Shariah law.

138. These regional developments bring several dividends. They promote closer networking and co-operation among States with special cultural and linguistic ties. They bring in to the Conventions more States formerly unfamiliar with Hague Conventions. They benefit other States outside the region through the development of good practices and consistent interpretation, and thus contribute in a more general way to the successful operation of the Conventions. They permit consideration to be given to ways of adapting the Conventions to the particular legal environments shared by countries in a region.

139. Ongoing regional developments which will benefit from the support of the International Centre include:

- cross-frontier family law issues involving certain Hague Convention States and certain non-Hague States from within the Islamic tradition;[128]

- the Special Programme to support implementation of Hague Judicial and Administrative Co-operation Conventions in Latin American States;[129]

- development work associated with the Hague Project for Africa;[130] and

- regional development work in the Asia / Pacific region.[131]

V. STRATEGY AND FUNDRAISING TO ENSURE CONTINUITY

140. In looking at the current foundation of the International Centre, built over the past decade and consolidated over the past year, several factors should be considered.

141. First, it should be acknowledged that there is a very strong base upon which to build. The **technical assistance programmes**, such as the **Intercountry Adoption Implementation Assistance Programme**, complemented by the **Convention-specific assistance** and the **regional programmes**, such as the **Latin American**, **African** and **Asian-Pacific Initiatives** and the **'Malta Process'**, create a solid foundation for development. In addition the Permanent Bureau has been responsible for numerous additional seminars upon which to draw for content, contacts, material, etc. These programmes are part and parcel of the actual work of the Permanent Bureau and draw heavily upon the expertise and resources of the Permanent Bureau (PB Members are asked to chair discussion sessions, develop legal materials guides, handbooks, etc.[132]).

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[128] See Project 3, Cross-Frontier Child Protection and Family Law Issues involving Certain Hague Convention States and Certain Non-Hague States from within the Islamic Tradition ('The Malta Process').
[129] See Project 4, The Special Programme for Latin American States.
[130] See Project 5, The Hague Project for Africa.
[131] See Project 6, The Asia-Pacific Regional Initiative.
[132] Legal materials include a new edition of the Practical Handbook on the Service Convention; ongoing development of Handbooks on the Apostille and the Evidence Conventions; Guide to Good Practice under the 1980 Child Abduction Convention on Central Authority Practice (Part I); Implementing Measures (Part II); and Preventive Measures (Part III); ongoing work on parts in respect of transfrontier access / contact and enforcement; Guide to Good Practice under the 1993 Intercountry Adoption Convention on Implementing Measures (Part I); establishment of legal and statistical databases and case management systems under the 1980 Child Abduction Convention (INCADAT, INCASTAT and iChild respectively); ongoing development of a statistical database under the 1993 Intercountry Adoption Convention (ICASTAT); publication and distribution of The Judges' Newsletter on International Child Protection to more than 800 Judges and others worldwide; ongoing development of materials produced in co-operation with other international institutions, in particular co-development of materials with UNCITRAL and UNIDROIT in the field of commercial, economic and finance law.

142. Secondly, it should be recognised that **Member States** have been very generous in **responding to requests for assistance** from the Permanent Bureau.[133] With a view to the current discussion, where the overwhelming majority of assistance will be given to countries in transition and developing countries, as well as for capacity building in the cross-border protection of children (*see supra* Projects 1-7), it is hoped that in addition to the usual Governmental Departments from which the Supplementary Budget is funded the Member States will look into programmes for Development Aid.

[133] The Supplementary Budget of the Hague Conference, operating since 1999, has been able to support projects not funded by the HCCH Regular Budget, in particular for post-Convention services.